

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1008

Citations Affected: IC 4-4-10.9-1.2; IC 4-22-2-37.1; IC 5-10.3-6-8.9; IC 6-3.5-7-13.1; IC 8-14; IC 8-15-2; IC 8-15-3; IC 8-15.5; IC 8-15.7; IC 8-23-9-54; IC 9-13-2-6.3; IC 9-21-3.5; IC 22-4-25-1; IC 22-4-25-2.5; IC 34-13-3-3; IC 36-7.5.

Synopsis: Public-private agreements for transportation. Amends the current laws concerning toll roads and tollways and adds new provisions to authorize: (1) the Indiana finance authority (IFA) to enter into public-private agreements (agreements) with private entities (operators) concerning toll road projects; and (2) the Indiana department of transportation (INDOT) to enter into agreements with operators concerning tollway projects, roads, and bridges. Provides that the IFA may not enter into an agreement after August 1, 2006, if the agreement would authorize the imposition of tolls unless a statute authorizing the imposition of tolls is enacted. Provides that INDOT may not enter into an agreement concerning a project other than I-69. Prohibits the IFA, INDOT, or an operator from: (1) carrying out construction for I-69 in certain townships; (2) imposing tolls on a highway between Martinsville and Indianapolis; or (3) establishing a tollway (except on part of I-69); unless a statute authorizing that construction, tolling, or tollway is enacted. Provides that an agreement may be for any combination of the planning, acquisition, construction, improvement, extension, operation, repair, maintenance, and financing of projects. Provides that an agreement is subject to the approval of the governor after review by the budget committee. Establishes procedures for selection of operators by the IFA and INDOT. Permits the establishment of user fees and tolls under an agreement, including maximum tolls and user fees and criteria for the adjustment of those maximums. Provides that, with the approval of the budget director after review by the budget committee, an agreement may include a moral obligation of the state to pay certain costs incurred as a result of default by the state under the agreement. Provides that an agreement may include provisions concerning electronic toll collection systems and photo or video based toll collection enforcement systems. Authorizes the IFA to adopt emergency rules concerning user fees under an agreement and enforcement procedures and assessments for failure to pay required tolls, including electronic and photo or video based collection enforcement. Establishes a process to withdraw state employees from the public employees' retirement fund (PERF) and to allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a

nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects normal or early retirement. Deletes the requirement for certain payments to the northwest Indiana regional development authority (RDA) from toll road revenues or the state general fund. Provides that property leased or acquired by an operator for a public-private project is exempt from property taxes. Provides that an operator's income from an agreement is subject to taxation in the same manner as income received by other private entities. Provides that revenues from an agreement entered into with respect to a toll road shall be deposited in the toll road fund and used to: (1) retire certain outstanding bonds; (2) pay amounts owed by the IFA with respect to the agreement; and (3) distribute \$500,000,000 to the next generation trust fund. Provides that the remaining money in the toll road fund is to be distributed to the major moves construction fund. Establishes the major moves construction fund and provides for distributions from that fund for various purposes. Permits the budget agency, after budget committee review, to augment distributions from the major moves construction fund to INDOT. Provides that the total amount of distributions from the major moves construction fund for projects or purposes that benefit counties traversed by the Indiana toll road may not be less than 34% of the money transferred to the major moves construction fund from the toll road fund plus money held in escrow for certain toll reductions. Provides that the budget agency is responsible for determining the amount necessary to comply with the 34% requirement. Establishes the next generation trust fund and provides for distributions of interest on the fund to the major moves construction fund at 5 year intervals beginning in 2011. Provides for the distribution of revenues from an agreement entered into with respect to a tollway to the major moves construction fund, to the state highway fund, to INDOT for use on other projects designated by INDOT, or to the operator, the IFA, or INDOT for debt reduction. Prohibits the operator under an agreement or a person having at least a 1% interest in the operator from making political contributions to state, local, or legislative candidates or certain political committees. Provides that INDOT may not convert a state highway to a toll road or a tollway unless the general assembly adopts a statute approving the conversion. Allocates \$2,000,000 from the special employment and training services fund for certain pre-apprenticeship and apprenticeship programs related to the construction trades. Eliminates an allocation for certain training and counseling assistance programs provided by state educational institutions. Permits LaPorte County council to join the RDA if the county council and the city council of Michigan City adopt ordinances before September 15, 2006, providing that they are joining the RDA. Requires LaPorte County and Michigan City to make annual payments to the RDA. Provides that LaPorte County and Michigan City may use all or a part of their distributions from the major moves construction fund to pay their required contributions to the NIRDA. Permits Laporte County to use economic development income tax (EDIT) revenue to pay the county's contributions to the RDA provides that revenue from any increase in the county's EDIT rate must be used for that purpose. Makes technical corrections and conforming amendments. **(This conference committee report: (1) inserts language from the House-passed version of the bill concerning public-private agreements by INDOT but provides for INDOT (instead of IFA) to administer those agreements; (2) adds the language limiting a public-private agreement by INDOT to the I-69 project and requiring the enactment of a statute before INDOT, the IFA, or an operator undertake certain activities; (3) changes the schedule of some of the distributions to counties, cities, and towns from the major moves construction fund for local road funding; (4) changes the manner in which the 34% requirement for distributions to certain counties from the major moves construction fund is determined; (5) requires the authority to enter into a written agreement with the operator concerning the implementation of electronic tolls on passenger motor vehicles on the Indiana Toll Road; (6) provides for certain distributions to offset decreased toll revenues from passenger motor vehicles under the written agreement; (7) deletes the income tax credit for payment of certain tolls on the Indiana Toll Road; (8) adds the language permitting LaPorte County to join the RDA; (9) changes the manner in which money is distributed from the next**

generation trust fund; (10) adds the language concerning apprenticeship programs; and (11) changes the investment guidelines for the major moves construction fund and the next generation trust fund.)

Effective: Upon passage; December 31, 2005 (retroactive); July 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1008 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the amendment made by the committee report of the committee
- 2 of one adopted March 2, 2006.
- 3 Delete everything after the enacting clause and insert the following:
- 4 SECTION 1. IC 4-4-10.9-1.2, AS ADDED BY P.L.235-2005,
- 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that
- 7 grant a power to or impose a duty on the authority, including but not
- 8 limited to IC 4-4-11, **IC 4-4-11.4**, IC 4-4-21, IC 4-13.5, IC 8-1-33,
- 9 IC 8-9.5, IC 8-14.5, IC 8-15, **IC 8-15.5**, IC 8-16, IC 13-18-13,
- 10 IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.
- 11 SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.235-2005,
- 12 SECTION 61, IS AMENDED TO READ AS FOLLOWS
- 13 [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies
- 14 to a rulemaking action resulting in any of the following rules:
- 15 (1) An order adopted by the commissioner of the Indiana
- 16 department of transportation under IC 9-20-1-3(d) or
- 17 IC 9-21-4-7(a) and designated by the commissioner as an
- 18 emergency rule.
- 19 (2) An action taken by the director of the department of natural
- 20 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 21 (3) An emergency temporary standard adopted by the occupational

- 1 safety standards commission under IC 22-8-1.1-16.1.
- 2 (4) An emergency rule adopted by the solid waste management
- 3 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 4 (5) A rule, other than a rule described in subdivision (6), adopted
- 5 by the department of financial institutions under IC 24-4.5-6-107
- 6 and declared necessary to meet an emergency.
- 7 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 8 department of financial institutions and declared necessary to meet
- 9 an emergency under IC 24-4.5-6-107.
- 10 (7) A rule adopted by the Indiana utility regulatory commission to
- 11 address an emergency under IC 8-1-2-113.
- 12 (8) An emergency rule adopted by the state lottery commission
- 13 under IC 4-30-3-9.
- 14 (9) A rule adopted under IC 16-19-3-5 that the executive board of
- 15 the state department of health declares is necessary to meet an
- 16 emergency.
- 17 (10) An emergency rule adopted by the Indiana ~~transportation~~
- 18 finance authority under IC 8-21-12.
- 19 (11) An emergency rule adopted by the insurance commissioner
- 20 under IC 27-1-23-7.
- 21 (12) An emergency rule adopted by the Indiana horse racing
- 22 commission under IC 4-31-3-9.
- 23 (13) An emergency rule adopted by the air pollution control board,
- 24 the solid waste management board, or the water pollution control
- 25 board under IC 13-15-4-10(4) or to comply with a deadline
- 26 required by federal law, provided:
- 27 (A) the variance procedures are included in the rules; and
- 28 (B) permits or licenses granted during the period the emergency
- 29 rule is in effect are reviewed after the emergency rule expires.
- 30 (14) An emergency rule adopted by the Indiana election
- 31 commission under IC 3-6-4.1-14.
- 32 (15) An emergency rule adopted by the department of natural
- 33 resources under IC 14-10-2-5.
- 34 (16) An emergency rule adopted by the Indiana gaming commission
- 35 under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 36 (17) An emergency rule adopted by the alcohol and tobacco
- 37 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
- 38 IC 7.1-3-20-24.4.
- 39 (18) An emergency rule adopted by the department of financial
- 40 institutions under IC 28-15-11.
- 41 (19) An emergency rule adopted by the office of the secretary of
- 42 family and social services under IC 12-8-1-12.
- 43 (20) An emergency rule adopted by the office of the children's
- 44 health insurance program under IC 12-17.6-2-11.
- 45 (21) An emergency rule adopted by the office of Medicaid policy
- 46 and planning under IC 12-15-41-15.
- 47 (22) An emergency rule adopted by the Indiana state board of
- 48 animal health under IC 15-2.1-18-21.
- 49 (23) An emergency rule adopted by the board of directors of the

Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), ~~and~~ (k), **and (l)**, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 3. IC 5-10.3-6-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:**

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity

to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the

1 member has less than ten (10) years of service. The benefit for the
 2 member shall be computed under IC 5-10.2-4-4 using the member's
 3 actual years of creditable service.

4 (i) A member who is covered by subsection (f) and who, as of the
 5 date of the notice under subsection (f), is less than twenty-four (24)
 6 months from being eligible for normal or early retirement under
 7 IC 5-10.2-4-1 may elect to retire by purchasing the service credit
 8 needed for retirement under the following conditions:

9 (1) The state shall contribute to the fund an amount
 10 determined under IC 5-10.2-3-1.2 and payable from the
 11 sources described in subsection (j) sufficient to pay the
 12 member's contributions required for the member's purchase
 13 of the service credit the member needs to retire.

14 (2) The maximum amount of creditable service that the state
 15 may purchase for a member under this subsection is
 16 twenty-four (24) months.

17 (3) The benefit for the member shall be computed under
 18 IC 5-10.2-4-4 using the member's actual years of creditable
 19 service plus all other service for which the fund gives credit,
 20 including the creditable service purchased under this
 21 subsection.

22 (j) The amounts that the state is required to contribute to the
 23 fund under subsection (i) must come from the following sources:

24 (1) If the state receives monetary payments under the lease or
 25 contractual arrangement described in subsection (a), the
 26 proceeds of the monetary payments received by the state. The
 27 state may not require, as a condition of the transaction to
 28 transfer state property or have certain state functions
 29 performed by a nongovernmental entity, that the
 30 nongovernmental entity directly or indirectly pay the amounts
 31 that the state is required to contribute under subsection (i).

32 (2) If the state does not receive any monetary payments under
 33 the lease or contractual arrangement described in subsection
 34 (a), any remaining appropriations made to the state
 35 department, agency, or other entity terminating the employees
 36 described in subsection (a).

37 (3) If the sources described in subdivisions (1) and (2) do not
 38 fully fund the amounts that the state is required to contribute
 39 to the fund under subsection (i), the board shall request that
 40 the general assembly appropriate the amount necessary to
 41 fully fund the state's required contribution under subsection (i)
 42 in the next biennial state budget.

43 (k) The board shall evaluate each withdrawal under this section
 44 to determine if the withdrawal affects the fund's compliance with
 45 Section 401(a) of the Internal Revenue Code of 1954, as in effect on
 46 September 1, 1974. The board may deny an employee permission
 47 to withdraw if the denial is necessary to achieve compliance with
 48 Section 401(a) of the Internal Revenue Code of 1954, as in effect on
 49 September 1, 1974.

SECTION 4. IC 6-3.5-7-13.1, AS AMENDED BY P.L.118-2005, SECTION 2, AND AS AMENDED BY P.L.214-2005, SECTION 21, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) *By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.*

~~(3)~~ (4) *By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one*

hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision ~~(4)~~ (5).

~~(4)~~ (5) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision ~~(3)~~ (4) that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that

1 year.

2 ~~(5)~~ **(6)** *This subdivision applies only in a county having a*
 3 *population of more than four hundred thousand (400,000) but*
 4 *less than seven hundred thousand (700,000). Except as otherwise*
 5 *provided, the procedures and definitions in IC 6-1.1-20.9 apply*
 6 *to this subdivision. A county or a city or town in the county may*
 7 *use county economic development income tax revenue to provide*
 8 *additional homestead credits in the county, city, or town. The*
 9 *following apply to additional homestead credits provided under*
 10 *this subdivision:*

11 (A) *The county, city, or town fiscal body must adopt an*
 12 *ordinance authorizing the additional homestead credits. The*
 13 *ordinance must:*

14 (i) *be adopted before September 1 of a year to apply to*
 15 *property taxes first due and payable in the following year;*
 16 *and*

17 (ii) *specify the amount of county economic development*
 18 *income tax revenue that will be used to provide additional*
 19 *homestead credits in the following year.*

20 (B) *A county, city, or town fiscal body that adopts an ordinance*
 21 *under this subdivision must forward a copy of the ordinance to*
 22 *the county auditor and the department of local government*
 23 *finance not more than thirty (30) days after the ordinance is*
 24 *adopted.*

25 (C) *The additional homestead credits must be applied*
 26 *uniformly to increase the homestead credit under IC 6-1.1-20.9*
 27 *for homesteads in the county, city, or town.*

28 (D) *The additional homestead credits shall be treated for all*
 29 *purposes as property tax levies. The additional homestead*
 30 *credits do not reduce the basis for determining the state*
 31 *property tax replacement credit under IC 6-1.1-21 or the state*
 32 *homestead credit under IC 6-1.1-20.9.*

33 (E) *The additional homestead credits shall be applied to the net*
 34 *property taxes due on the homestead after the application of all*
 35 *other assessed value deductions or property tax deductions and*
 36 *credits that apply to the amount owed under IC 6-1.1.*

37 (F) *The department of local government finance shall*
 38 *determine the additional homestead credit percentage for a*
 39 *particular year based on the amount of county economic*
 40 *development income tax revenue that will be used under this*
 41 *subdivision to provide additional homestead credits in that*
 42 *year.*

43 **(7) This subdivision applies only to a county:**

44 **(A) that has a population of more than one hundred ten**
 45 **thousand (110,000) but less than one hundred fifteen**
 46 **thousand (115,000); and**

47 **(B) in which:**

48 **(i) the county fiscal body has adopted an ordinance under**
 49 **IC 36-7.5-2-3(e) providing that the county is joining the**

1 northwest Indiana regional development authority; and
 2 (ii) the fiscal body of the city described in IC 36-7.5-2-3(e)
 3 has adopted an ordinance under IC 36-7.5-2-3(e)
 4 providing that the city is joining the development
 5 authority.

6 Revenue from the county economic development income tax
 7 may be used by a county or a city described in this subdivision
 8 for making transfers required by IC 36-7.5-4-2. In addition, if
 9 the county economic development income tax rate is increased
 10 after June 30, 2006, in the county, the first three million five
 11 hundred thousand dollars (\$3,500,000) of the tax revenue that
 12 results each year from the tax rate increase shall be used by the
 13 county only to make the county's transfer required by
 14 IC 36-7.5-4-2. The first three million five hundred thousand
 15 dollars (\$3,500,000) of the tax revenue that results each year
 16 from the tax rate increase shall be paid by the county treasurer
 17 to the treasurer of the northwest Indiana regional development
 18 authority under IC 36-7.5-4-2 before certified distributions are
 19 made to the county or any cities or towns in the county under
 20 this chapter from the tax revenue that results each year from
 21 the tax rate increase. All of the tax revenue that results each
 22 year from the tax rate increase that is in excess of the first
 23 three million five hundred thousand dollars (\$3,500,000) that
 24 results each year from the tax rate increase must be used by
 25 the county and cities and towns in the county for additional
 26 homestead credits under subdivision (8).

27 (8) This subdivision applies only to a county described in
 28 subdivision (7). Except as otherwise provided, the procedures
 29 and definitions in IC 6-1.1-20.9 apply to this subdivision. All of
 30 the tax revenue that results each year from a tax rate increase
 31 described in subdivision (7) that is in excess of the first three
 32 million five hundred thousand dollars (\$3,500,000) that results
 33 each year from the tax rate increase must be used by the
 34 county and cities and towns in the county for additional
 35 homestead credits under this subdivision. The following apply
 36 to additional homestead credits provided under this
 37 subdivision:

38 (A) The additional homestead credits must be applied
 39 uniformly to increase the homestead credit under
 40 IC 6-1.1-20.9 for homesteads in the county, city, or town.

41 (B) The additional homestead credits shall be treated for all
 42 purposes as property tax levies. The additional homestead
 43 credits do not reduce the basis for determining the state
 44 property tax replacement credit under IC 6-1.1-21 or the
 45 state homestead credit under IC 6-1.1-20.9.

46 (C) The additional homestead credits shall be applied to the
 47 net property taxes due on the homestead after the
 48 application of all other assessed value deductions or
 49 property tax deductions and credits that apply to the amount

owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

SECTION 5. IC 8-14-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 14. Major Moves Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the

1 Indiana department of transportation.

2 Sec. 3. As used in this chapter, "fund" refers to the major moves
3 construction fund established by section 5 of this chapter.

4 Sec. 4. As used in this chapter, "transportation plan" refers to
5 the department's long range comprehensive transportation plan
6 developed under IC 8-23-2-5.

7 Sec. 5. (a) The major moves construction fund is established for
8 the purpose of:

9 (1) funding projects under IC 8-15.7 or IC 8-15-3;

10 (2) funding other projects in the department's transportation
11 plan; and

12 (3) funding distributions under sections 6 and 7 of this chapter.

13 (b) The fund shall be administered by the department.

14 (c) Notwithstanding IC 5-13, the treasurer of state shall invest
15 the money in the fund not currently needed to meet the obligations
16 of the fund in the same manner as money is invested by the public
17 employees' retirement fund under IC 5-10.3-5. However, the
18 treasurer of state may not invest the money in the fund in equity
19 securities. The treasurer of state may contract with investment
20 management professionals, investment advisors, and legal counsel
21 to assist in the investment of the fund and may pay the state
22 expenses incurred under those contracts from the fund. Interest
23 that accrues from these investments shall be deposited in the fund.

24 (d) The fund consists of the following:

25 (1) Distributions to the fund from the toll road fund under
26 IC 8-15.5-11.

27 (2) Distributions to the fund from the next generation trust
28 fund under IC 8-14-15.

29 (3) Appropriations to the fund.

30 (4) Gifts, grants, loans, bond proceeds, and other money
31 received for deposit in the fund.

32 (5) Revenues arising from:

33 (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

34 (B) a toll road under IC 8-15-2 or IC 8-23-7-23;

35 that the department designates as part of, and deposits in, the
36 fund.

37 (6) Payments made to the authority or the department from
38 operators under IC 8-15.7.

39 (7) Interest, premiums, or other earnings on the fund.

40 (e) The fund is considered a trust fund for purposes of
41 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise
42 removed from the fund by the state board of finance, the budget
43 agency, or any other state agency.

44 (f) Money in the fund at the end of a state fiscal year does not
45 revert to the state general fund.

46 (g) Money in the fund must be appropriated by the general
47 assembly to be available for expenditure.

48 Sec. 6. (a) If the authority enters into a public-private agreement
49 concerning the Indiana Toll Road under IC 8-15.5, the auditor of

1 state shall make the following distributions from the fund for the
2 indicated purposes:

3 (1) One hundred fifty million dollars (\$150,000,000) to the
4 treasurer of state for deposit in the motor vehicle highway
5 account established by IC 8-14-1. Notwithstanding IC 8-14-1,
6 on or before October 15, 2006, and on or before October 15,
7 2007, the auditor of state shall distribute seventy-five million
8 dollars (\$75,000,000) of the money deposited in the motor
9 vehicle highway account under this subdivision to each of the
10 counties, cities, and towns eligible to receive a distribution
11 from the motor vehicle highway account under IC 8-14-1 and
12 in the same proportion among the counties, cities, and towns as
13 funds are distributed from the motor vehicle highway account
14 under IC 8-14-1. The auditor of state:

15 (A) shall make the distributions required by this subdivision
16 separately from distributions required by IC 8-14-1; and

17 (B) may not combine the distributions required by this
18 subdivision with distributions required by IC 8-14-1.

19 Money distributed under this subdivision may be used only for
20 purposes that money distributed from the motor vehicle
21 highway account may be expended under IC 8-14-1.

22 (2) The following amounts to the northwest Indiana regional
23 development authority for deposit in the development
24 authority fund established under IC 36-7.5-4-1:

25 (A) Forty million dollars (\$40,000,000) during the state fiscal
26 year beginning July 1, 2006. During the state fiscal year
27 beginning July 1, 2006, the regional development authority
28 must pay at least twenty million dollars (\$20,000,000) of the
29 distribution received under this clause to an airport
30 authority that is carrying out an airport expansion project
31 described in IC 36-7.5-2-1(2).

32 (B) Eighty million dollars (\$80,000,000) to be distributed in
33 installments of ten million dollars (\$10,000,000) during the
34 state fiscal year beginning July 1, 2007, and each of the seven
35 (7) state fiscal years thereafter.

36 However, no distributions may be made under clause (B) until
37 the development authority's comprehensive strategic
38 development plan prepared under IC 36-7.5-3-4 has been
39 reviewed by the budget committee and approved by the
40 director of the office of management and budget. In addition,
41 no distributions may be made under clause (B) during the state
42 fiscal years beginning July 1, 2009, July 1, 2011, and July 1,
43 2013, unless the budget committee has reviewed the status of
44 the plan and any changes to the plan.

45 (3) The following amounts to each of the following counties on
46 or before September 15, 2006, for deposit in local major moves
47 construction funds under IC 8-14-16:

48 (A) Forty million dollars (\$40,000,000) to each county
49 described in IC 8-14-16-1(1) through IC 8-14-16-1(5).

1 However, if a county described in IC 8-14-16-1(3) becomes
 2 a member of the northwest Indiana regional development
 3 authority, the distribution to that county is twenty-five
 4 million dollars (\$25,000,000) instead of forty million dollars
 5 (\$40,000,000).

6 (B) Twenty-five million dollars (\$25,000,000) to each county
 7 described in IC 8-14-16-1(6).

8 (C) Fifteen million dollars (\$15,000,000) to each county
 9 described in IC 8-14-16-1(7).

10 (4) One hundred seventy-nine million dollars (\$179,000,000)
 11 during the state fiscal year beginning July 1, 2006, to the state
 12 highway fund for use by the department for preliminary
 13 engineering, purchase of rights-of-way, or construction of
 14 highways, roads, and bridges. After review by the budget
 15 committee, and subject to the approval of the governor, the
 16 budget agency may augment this distribution from balances
 17 available in the fund.

18 (5) An amount sufficient to provide for the payments owed by
 19 the authority as a result of a written agreement entered into
 20 under IC 8-15.5-7-6 to fund reductions in, or refunds of, user
 21 fees imposed on Class 2 vehicles, or to establish or replenish
 22 the reserves therefore, to the administration account of the toll
 23 road fund. The budget agency shall determine the amount of
 24 the distributions required to be made by this subdivision for
 25 each state fiscal year beginning with the state fiscal year ending
 26 June 30, 2007, and ending with the state fiscal year ending
 27 June 30, 2016.

28 (6) An amount sufficient to make any payments required by
 29 IC 5-10.3-6-8.9 as a result of a public-private agreement under
 30 IC 8-15.5.

31 (b) There is annually appropriated from the fund an amount
 32 sufficient to make any distributions required by subsection (a).

33 Sec. 7. In addition to any distributions required by section 6 of
 34 this chapter, money in the fund may be used for any of the
 35 following purposes:

36 (1) The payment of any obligation incurred or amounts owed
 37 by the authority, the department, or an operator under
 38 IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with
 39 the execution and performance of a public-private agreement
 40 under IC 8-15.5 or IC 8-15.7, including establishing reserves.

41 (2) Lease payments to the authority, if money for those
 42 payments is specifically appropriated by the general assembly.

43 (3) Distributions to the treasurer of state for deposit in the
 44 state highway fund, for the funding of any project in the
 45 department's transportation plan.

46 Sec. 8. (a) The total amount of distributions from the fund for
 47 projects or purposes that benefit a county traversed by the Indiana
 48 Toll Road may not be less than thirty-four percent (34%) of:

49 (1) the money that is transferred to the fund from the toll road

1 fund under IC 8-15.5-11; plus

2 (2) the amount initially set aside in the administration account
3 of the toll road fund to establish an escrow account to
4 implement a written agreement entered into under
5 IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees
6 imposed on Class 2 vehicles.

7 (b) The budget agency shall determine the amount of
8 distributions required by this section. In making the determination,
9 the budget agency shall include the following amounts:

10 (1) Amounts distributed to counties traversed by the Indiana
11 Toll Road under section 6(a)(1) of this chapter.

12 (2) Money distributed to the northwest Indiana regional
13 development authority under this chapter.

14 (3) Money distributed under section 6(a)(3) of this chapter.

15 (4) Projects carried out by the department in counties
16 traversed by the Indiana Toll Road and funded with money
17 distributed under section 6(a)(4) of this chapter.

18 (5) The amount initially set aside in the administration account
19 of the toll road fund to establish an escrow account to
20 implement a written agreement entered into under
21 IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees
22 imposed on Class 2 vehicles.

23 (6) Money transferred to the administration account of the toll
24 road fund under section 6(a)(5) of this chapter.

25 (7) Payments to the public employees' retirement fund required
26 by section 6(a)(6) of this chapter.

27 SECTION 6. IC 8-14-15 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
29 PASSAGE]:

30 Chapter 15. Next Generation Trust Fund

31 Sec. 1. As used in this chapter, "authority" refers to the Indiana
32 finance authority.

33 Sec. 2. As used in this chapter, "trust" refers to the next
34 generation trust fund established under this chapter.

35 Sec. 3. As used in this chapter, "trustee" refers to the trustee of
36 the trust designated under section 7 of this chapter.

37 Sec. 4. (a) The authority shall establish a next generation trust
38 fund to hold title to proceeds transferred to the trust under
39 IC 8-15.5-11 to be used exclusively for the provision of highways,
40 roads, and bridges for the benefit of the people of Indiana and the
41 users of those facilities.

42 (b) The trust shall be established as a charitable trust, separate
43 from the state, but for the benevolent public purpose provided in
44 this section.

45 (c) The trust consists of the proceeds transferred to the trust
46 under IC 8-15.5-11 and any income that accrues from the
47 investment of these proceeds.

48 Sec. 5. The chairman of the authority shall enter into a trust
49 agreement on behalf of the authority with the treasurer of state in

conformity with IC 30-4-2-1. Any provision of the trust agreement entered into under this section that is inconsistent with the provisions or intent of this chapter is void and of no further force or effect.

Sec. 6. A trust established under this chapter must be an irrevocable trust and may not be revoked or terminated by the authority or any other person, nor may it be amended or altered by the authority or any other person. However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.

Sec. 7. The treasurer of state shall act as the trustee of the trust.

Sec. 8. (a) The trustee shall:

- (1) administer and manage the trust;
- (2) invest the money in the trust; and
- (3) deposit in the trust any interest that accrues from the investment of these funds.

(b) Notwithstanding IC 5-13, the trustee shall invest the money in the trust not currently needed to meet the obligations of the trust in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the trustee may not invest the money in the trust in equity securities. The trustee shall also comply with the prudent investor rule set forth in IC 30-4-3.5. The trustee may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the trust and may pay the state expenses incurred under those contracts from the trust.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

(d) Money in the trust at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. IC 30-4 (trust code) applies to a trust established under this chapter.

Sec. 10. (a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2011, March 15, 2016, and March 15 every five (5) years thereafter, the treasurer of state shall transfer all interest accruing to the trust to the major moves construction fund.

Sec. 11. The report required under IC 30-4-5-12 is a public record. The attorney general may petition for an accounting as permitted by IC 30-4-5-12.

Sec. 12. (a) This section applies if a person does any of the following with respect to a trust created under this chapter:

- (1) Commits a breach of the trust.
- (2) Violates the mandate of the trust or trust agreement.
- (3) Violates a duty imposed by this chapter, the trust agreement, or IC 30-4.

(b) The attorney general may petition a court to impose one (1)

or more of the remedies described in IC 30-4-5.5-1.

Sec. 13. Any records, files, or documents relating to the trust may be examined by the state board of accounts at a time selected by the state board of accounts. The trustee shall upon request of the state board of accounts:

- (1) produce and submit any records, files, or documents related to the trust; and
- (2) assist in every way the state board of accounts in its work in making an examination.

SECTION 7. IC 8-14-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 16. Local Major Moves Construction Funds

Sec. 1. This chapter applies only to the following counties:

- (1) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).
- (2) A county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950).
- (3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).
- (4) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).
- (5) A county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).
- (6) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).
- (7) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 2. As used in this chapter, "fund" refers to a local major moves construction fund established under section 4 of this chapter.

Sec. 3. Money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

Sec. 4. (a) Each county, city, or town that receives a distribution under section 3 of this chapter shall establish a local major moves construction fund.

(b) The fund consists of money distributed to the county, city, or town from the major moves construction fund under section 3 of this chapter.

(c) The fiscal officer of the county, city, or town shall administer the fund.

(d) Subject to subsection (f), the fiscal body of the county, city, or town may appropriate money in the fund for a purpose described in section 5 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

(f) A county fiscal body must consult with the county executive before making an appropriation under this section.

Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through IC 6-3.5-7-13.1(c)(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's or city's contribution to the northwest Indiana regional development authority, in the case of a county described in section 1(3) of this chapter or a city described in IC 36-7.5-2-3(e),

SECTION 8. IC 8-15-2-1, AS AMENDED BY P.L.214-2005, SECTION 51, AND AS AMENDED BY P.L.235-2005, SECTION 115, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) **subject to subsection (d)**, construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall

be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain ~~public~~ improvements ~~such as roads and streets, sewerlines, waterlines, and sidewalks~~ for manufacturing, ~~or~~ commercial, or public transportation activities within a county through which a toll road passes; ~~if these improvements are within the county and are within an area that is located:~~

~~(A) ten (10) miles on either side of the center line of a toll road project; or~~

~~(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;~~

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ~~ten (10) miles of the center line of a county through which a toll road project passes~~ and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) ~~assist in~~ finance improvements necessary for developing ~~existing~~ transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) *This chapter:*

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(d) Notwithstanding any other law, neither the authority nor an operator selected under IC 8-15.5 may carry out any of the following activities under this chapter unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 9. IC 8-15-2-5 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE UPON PASSAGE]: Sec. 5. The authority may do the
 following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter **to a state agency or political subdivision.**

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing traffic from each direction on the toll road. Such signs shall

1 designate the number and other designations, if any, of all United
 2 States or state highways of ingress or egress, the names of all
 3 Indiana municipalities with a population of five thousand (5,000)
 4 or more within a distance of seventy-five (75) miles on such roads
 5 of ingress or egress, and the distance in miles to such designated
 6 municipalities.

7 (7) Make and enter into all contracts and agreements necessary or
 8 incidental to the performance of its duties and the execution of its
 9 powers under this chapter, ~~or~~ IC 8-9.5-8, **or IC 8-15.5**. When the
 10 cost under any such contract or agreement, other than:

11 (A) a contract for compensation for personal services;

12 (B) a contract with the department under IC 8-9.5-8-7; ~~or~~

13 (C) a lease with the department under IC 8-9.5-8-8; **or**

14 **(D) a contract, a lease, or another agreement under**
 15 **IC 8-15.5;**

16 involves an expenditure of more than ten thousand dollars
 17 (\$10,000), the authority shall make a written contract with the
 18 lowest and best bidder after advertisement for not less than two (2)
 19 consecutive weeks in a newspaper of general circulation in Marion
 20 County, Indiana, and in such other publications as the authority
 21 shall determine. Such notice shall state the general character of the
 22 work and the general character of the materials to be furnished, the
 23 place where plans and specifications therefor may be examined, and
 24 the time and place of receiving bids. Each bid shall contain the full
 25 name of every person or company interested in it and shall be
 26 accompanied by a sufficient bond or certified check on a solvent
 27 bank that if the bid is accepted a contract will be entered into and
 28 the performance of its proposal secured. The authority may reject
 29 any and all bids. A bond with good and sufficient surety shall be
 30 required by the authority of all contractors in an amount equal to at
 31 least fifty percent (50%) of the contract price, conditioned upon the
 32 faithful performance of the contract.

33 (8) Employ consulting engineers, superintendents, managers, and
 34 such other engineers, construction and accounting experts, bond
 35 counsel, other attorneys with the approval of the attorney general,
 36 and other employees and agents as may be necessary in its
 37 judgment to carry out the provisions of this chapter, and to fix their
 38 compensation. However, all such expenses shall be payable solely
 39 from the proceeds of toll road revenue bonds issued under the
 40 provisions of this chapter or from revenues.

41 (9) Receive and accept from any federal agency, subject to
 42 IC 8-23-3, grants for or in aid of the construction of any toll road
 43 project, and receive and accept aid or contributions from any source
 44 of either money, property, labor, or other things of value, to be held,
 45 used, and applied only for the purposes for which such grants and
 46 contributions may be made, and repay any grant to the authority or
 47 to the department from a federal agency if such repayment is
 48 necessary to free the authority from restrictions which the authority
 49 determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

~~(14)~~ (15) Do all acts and things necessary or proper to carry out this chapter.

SECTION 10. IC 8-15-2-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project.**

SECTION 11. IC 8-15-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may:

(1) fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines; **and**

(2) fix the terms, conditions, and rates of charge for such use, **including assessments for the failure to pay required tolls**, subject, however, to the state's police power; **and**

(3) collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority **under this section or under a public-private agreement entered into under IC 8-15.5** for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, **except those received in accordance with a public-private agreement under IC 8-15.5**, shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal and interest become due; or

(B) the redemption price or purchase price of the bonds retired by

1 call or purchase.

2 (3) Except as prohibited by the resolution authorizing the issuance
3 of bonds under this chapter or the trust agreement securing them,
4 for any purpose relating to any toll road project, including the
5 subject toll road project, as the authority provides by resolution.

6 (h) Neither the resolution nor any trust agreement by which a pledge
7 is created needs to be filed or recorded except in the records of the
8 authority.

9 (i) The use and disposition of moneys to the credit of any sinking fund
10 shall be subject to the provisions of any resolution or resolutions
11 authorizing the issuance of any bonds or of any trust agreement. Except
12 as may otherwise be provided in this chapter or in any resolution or any
13 trust agreement, any sinking fund shall be a fund for all bonds without
14 distinction or priority of one over another, subject, however, to such
15 priorities as may arise from prior pledges.

16 (j) In the case of a toll road project that is leased to the department
17 under IC 8-9.5-8-8, the lease must require that the department fix tolls
18 for the toll road project that comply with IC 8-9.5-8-8(c)(6).

19 **(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project**
20 **that is subject to a public-private agreement under IC 8-15.5 shall**
21 **be set in accordance with IC 8-15.5-7.**

22 SECTION 12. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005,
23 SECTION 52, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE UPON PASSAGE]: Sec. 14.5. (a) Subject to the
25 provisions and requirements of any trust agreement providing for the
26 issuance of toll road revenue bonds and only to the extent permitted by
27 such trust agreement, the authority shall fix the tolls for any toll road
28 under its jurisdiction.

29 **(b) Subsection (a) does not apply to tolls fixed, authorized, or**
30 **established in accordance with a public-private agreement under**
31 **IC 8-15.5.**

32 SECTION 13. IC 8-15-2-14.7, AS ADDED BY P.L.214-2005,
33 SECTION 53, IS AMENDED TO READ AS FOLLOWS
34 [EFFECTIVE UPON PASSAGE]: Sec. 14.7. (a) As used in this
35 section, "development authority" refers to the development authority
36 established under IC 36-7.5-2-1.

37 (b) Subject to the trust agreement of any outstanding bonds and
38 subject to the requirements of subsection (d), the authority shall
39 distribute to the development authority in calendar year 2006 and
40 calendar year 2007 from revenues accruing to the authority from the toll
41 road at least five million dollars (\$5,000,000) and not more than ten
42 million dollars (\$10,000,000) each year. The amount of the distribution
43 for a year shall be determined by the authority. The amount to be
44 distributed each year shall be distributed in equal quarterly amounts
45 before the last business day of January, April, July, and October of
46 2006 and 2007. The amounts distributed under this subsection shall be
47 deposited in the development authority fund established under
48 ~~IC 36-7.5-4-1.~~

49 (c) Subject to the trust agreement of any outstanding bonds and

subject to the requirements of subsections (d) and (e), after 2007, the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

~~(d)~~ A distribution may be made by the authority **(b) An appropriation made by the general assembly** to the development authority under subsection ~~(b)~~ or ~~(c)~~ **may be distributed to the development authority** only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

~~(e)~~ A distribution may be made by the authority **(c) An appropriation made by the general assembly to the development authority may be distributed** to the development authority under subsection ~~(c)~~ only after:

~~(1)~~ the budget committee has reviewed; ~~the development authority's comprehensive strategic development plan under IC 36-7.5-3-4 and~~

~~(2)~~ the director of the office of management and budget has approved;

the comprehensive strategic development plan **submitted in accordance with IC 36-7.5-3-4.**

~~(f)~~ **(d)** If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay ~~an amount equal to the greater of zero (0) or the result of:~~

~~(1) twenty million dollars (\$20,000,000); minus~~

~~(2) any amounts transferred to the development authority under this subsection before the sale or lease;~~

~~from the state general fund the amount, if any, appropriated by the general assembly~~ to the development authority fund established under IC 36-7.5-4-1.

~~(g)~~ **(e)** Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

~~(h)~~ The amounts necessary to make any distributions or payments required or authorized by this section are appropriated:

SECTION 14. IC 8-15-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. Such funds shall be kept in depositories as selected by the authority and may be invested until expended, all as provided by law.

(b) The resolution authorizing the issuance of bonds of any issue or

the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall:

- (1) act as trustee of such moneys; and
- (2) hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide.

(c) This section does not apply to money paid or received with respect to a toll road project that is the subject of a public-private agreement under IC 8-15.5.

SECTION 15. IC 8-15-2-17.2, AS AMENDED BY P.L.151-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority may adopt rules:

- (1) Establishing weight and size limitations for vehicles using a toll road project, subject to the following:

- (A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights as set out by the authority in rules and regulations shall apply to the authority in writing, for an application for a special hauling permit, which application must be in compliance with all the terms thereof, and which application must be received at least seven (7) days prior to the time of permitted entry should such permit be granted. Such permit, if granted, will be returned to the applicant in duplicate, properly completed and numbered, and the driver of the vehicle shall have a copy to present to the toll attendant on duty at the point of entry.

- (B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

- (i) The administrative cost of issuing the permit.
- (ii) The potential damage the vehicle represents to the project.
- (iii) The potential safety hazard the vehicle represents.

- (2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.

- (3) Designating one-way traffic lanes on a toll road project.

- (4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.

- (5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing motor vehicles on a toll road project.

- (6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

- (7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

- (8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such

rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls.

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; or

(2) a rule adopted under subsection (a)(10);

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

SECTION 16. IC 8-15-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The authority may, after adopting a resolution and after receiving the governor's approval, at any time determine under IC 8-23-7 that a toll road project constructed or operated by the authority, **other than a toll road project that is subject to a public-private agreement under IC 8-15.5**, should become a part of the system of state highways free of tolls or become a tollway under IC 8-15-3.

(b) Any resolution as to any project described in subsection (a) shall not become effective until all bonds to which the revenues of any project were pledged for payment, together with all interest thereon, is paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), **and subject to the terms of any public-private agreement under IC 8-15.5**, any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided

in this chapter. Subject to any agreement entered into by the Secretary of Commerce of the United States, acting by and through the federal highway administrator, the Indiana toll road commission, and the state, acting by and through the Indiana department of transportation, Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.

SECTION 17. IC 8-15-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. **(a) Except as provided in subsection (b), and** notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

SECTION 18. IC 8-15-2-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. **If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.**

SECTION 19. IC 8-15-2-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. **A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.**

SECTION 20. IC 8-15-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. **"Operator" refers to one (1) or more private individuals or entities that enter into a public-private agreement to do one (1) or more of the following with respect to one (1) or more tollways:**

- (1) Planning.**
- (2) Design.**
- (3) Development.**
- (4) Construction.**
- (5) Reconstruction.**
- (6) Maintenance.**
- (7) Repair.**
- (8) Financing.**
- (9) Operation.**

A public entity may provide services to an operator as a subcontractor or subconsultant without affecting the private status of the operator and the entity's or operator's ability to enter into a public-private agreement.

SECTION 21. IC 8-15-3-3.5 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Public-private agreement" has the meaning set forth in IC 8-15.7-2-15.**

SECTION 22. IC 8-15-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. As used in this chapter, "tollway" ~~means~~ **includes any combination or part of:**

(1) an express highway, superhighway, **bridge, tunnel**, or motor way, **including express lanes and managed lanes**, constructed under this chapter **or IC 8-15.7** or, **subject to section 10 of this chapter**, converted to a tollway under IC 8-23-7-22; ~~The term includes~~

(2) any bridge, tunnel, overpass, underpass, interchange, **structure, ramp, access road, service road**, entrance plaza, approach, tollhouse, **utility corridor, toll gantry, rest stop**, service station, or administration, storage, or other buildings or facilities, **including temporary facilities and buildings, facilities, and structures that will not be tolled**, that the department considers **appurtenant to or** necessary or desirable for the **financing, construction, operation, of the tollway**. ~~The term also includes or maintenance of one (1) or more of the items described in subdivision (1); and~~ (3) any subsequent improvement, betterment, enlargement, extension, or reconstruction of ~~a tollway, including any section, which is one (1) or more items described in this section,~~ **including any nontolled part, that are** separately designated by name or number.

SECTION 23. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Subject to subsection (e)**, the governor must approve the location of any tollway.

(b) The department may, **in any combination, plan, design, develop**, construct, reconstruct, maintain, repair, police, **finance**, and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may, **in any combination, plan, design**, develop, construct, reconstruct, improve, **finance, operate, repair**, or maintain public improvements such as roads and streets, sewer lines, ~~and~~ water lines, **and other utilities** if these improvements are:

(1) adjacent **or appurtenant** to a tollway; **or**

(2) **necessary or desirable for the financing, construction, operation, or maintenance of a tollway.**

(d) The department may, **in any combination, plan, design, develop**, construct, reconstruct, ~~or~~ **improve, maintain, repair, operate, or** finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) **is adjacent to, appurtenant to, or** interchanges with a tollway; **or**

(2) intersects with a road or street that interchanges with a tollway.

(e) **Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this chapter unless the general assembly enacts a statute**

authorizing that activity:

(1) Approve the location of a tollway, other than Interstate Highway 69 between Interstate Highway 64 and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 24. IC 8-15-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The department may fix, revise, charge, ~~and collect,~~ **retain, and use** tolls for transit over each tollway ~~the department constructs or converts from a state highway to a tollway under IC 8-23-7-22.~~ **or part of a tollway. The tolls and the setting of toll rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state.**

SECTION 25. IC 8-15-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The department may transfer to the tollway **or lease, license, or otherwise transfer to the authority or the operator of a tollway** any real property or interest in real property acquired by it under **section 13 or 31 of this chapter,** IC 8-23-7, or otherwise that is necessary, **desirable,** or convenient for the **financing,** construction, **maintenance,** and operation of any tollway **or part of a tollway,** or as otherwise required under this chapter.

SECTION 26. IC 8-15-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), the department may designate the locations and establish, limit, and control points of ingress and egress from each tollway as necessary or desirable to:

(1) ensure the proper operation and maintenance of the tollway;

(2) finance the tollway;

~~(2)~~ **(3)** prohibit entrance to the tollway from any point that is not designated as an entrance; and

~~(3)~~ **(4)** provide for and permit the interconnection of a tollway with a toll road that is leased or operated by the department.

(b) The department may not grant ingress to or egress from any tollway, service area, or toll collection area having direct access to the tollway for the operation of transient lodging facilities, including the service areas on which are located service stations and restaurants and toll plazas and paved parts of the right-of-way.

(c) The department shall erect ~~at its cost,~~ at all points of ingress and

egress ~~large and~~ suitable signs facing traffic from each direction on the tollway. These signs must designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities having a population of at least five thousand (5,000) within a distance of seventy-five (75) miles on the roads of ingress or egress, and the distance in miles to those designated municipalities.

SECTION 27. IC 8-15-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The department may make and enter into all **leases, licenses, conveyances,** contracts, and agreements necessary or incidental to the performance of the department's duties and the execution of the department's powers under this chapter **and IC 8-15.7.**

SECTION 28. IC 8-15-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. The department may employ consulting engineers, superintendents, managers, other engineers, construction **and experts, financial advisers,** accounting experts, attorneys, ~~(with the approval of the attorney general)~~, and other **consultants, contractors,** employees, and agents necessary to carry out this chapter **or IC 8-15.7,** and fix their compensation.

SECTION 29. IC 8-15-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The department may receive and accept **in any combination** from any federal, **state, or local** agency, subject to ~~IC 8-9.5-6-1,~~ **IC 8-23-3, loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and** grants for or in aid of the **planning, design, construction, financing, repair, rehabilitation, expansion, improvement, operation, or maintenance** of **all or part of** any tollway, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which those **loan proceeds, proceeds from lines of credit, proceeds from credit guarantees,** grants, or contributions are made. **The department may distribute any part of loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and grants received under this section to an operator as permitted by the terms of the loan, line of credit, credit guarantee, or grant.** The department, **the authority, or an operator, as required by a public-private agreement,** shall repay any **loan, line of credit, credit guarantee, or** grant from a federal, **state, or local** agency, if a repayment is necessary to free the department from restrictions that the department determines to be in the public interest to remove.

SECTION 30. IC 8-15-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The department may accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance from any source and agree to and comply with conditions attached to it. **Subject to the conditions agreed to by the department, the**

department may distribute any gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance received under this section to an operator, as set forth in a public-private agreement.

SECTION 31. IC 8-15-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The exercise of the powers granted by this chapter **to the department or the authority** must be in all respects for:

- (1) the benefit of the people of Indiana;
- (2) the increase of the commerce and prosperity of Indiana; and
- (3) the improvement of the health and living conditions of the people of Indiana.

(b) Since the operation and maintenance of a tollway by the department **or the authority** constitutes the performance of essential governmental functions, **neither** the department **nor the authority** is ~~not~~ required to pay any taxes or assessments upon a tollway or any property acquired or used by the department under this chapter **or IC 8-15.7** or upon the income from a tollway.

(c) **The operator under a public-private agreement is not required to pay taxes or assessments upon a tollway, any property or property interest acquired by the operator under a public-private agreement, or any possessory interest in the tollway or in property granted or created by the public-private agreement under this chapter or IC 8-15.7.**

(d) An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in:

- (1) a tollway; or
- (2) property granted or created by the public-private agreement;

is entitled to the exemption from gross retail tax and use tax provided under IC 6-2.5-4-9(b) and IC 6-2.5-3-2(c), respectively, with respect to that tangible personal property.

SECTION 32. IC 8-15-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), the department may:

- (1) fix, revise, charge, and collect tolls, **fees, or charges** for:
 - (A) the use of a tollway or any part of a tollway, including the right-of-way adjoining the paved part of the tollway; ~~and~~
 - (B) placing on a tollway or part of a tollway telephone, telegraph, electric light, **cable, communication, gas, water, sewer,** or power lines; ~~and~~
 - (C) **the initiation, administration, and maintenance of customer accounts, late payment procedures, credit card and other electronic transactions, and enforcement actions for collection of unpaid amounts; and**
 - (D) **equipment used by customers in connection with electronic tolling, including transponders;**

(2) fix the terms, conditions, and rates of charge for use of a tollway; **and**

(3) retain and use tolls, fees, or charges collected in accordance with this article.

(b) A toll or charge may not be made by the department for the following:

(1) The operation of temporary lodging facilities located upon or adjacent to a tollway.

(2) Placing in, on, along, over, or under a tollway any telephone, telegraph, electric light, **cable, communication, gas, water, sewer,** or power lines, equipment, or facilities that are necessary to serve establishments located on the tollway or that are necessary to interconnect any public utility facilities on one (1) side of the tollway with those on the other side.

(c) Tollway tolls that are collected shall be deposited in a special fund so that the tolls from each tollway project may be accounted for and used only for the purposes of operating and maintaining the facility from which the tolls were collected:

~~(d)~~ (c) The department ~~shall~~ **may** fix the tolls for a tollway ~~so that, to the extent feasible, the tolls for any class of traffic are substantially uniform according to the mileage between interchanges. A reduced rate of toll is not allowed within a class except through the use of commutation or other tickets or privileges based upon frequency or volume of use.~~ **by establishing maximum amounts and may provide that tolls or any maximum tolls established, and any increases or decreases to those tolls or maximum tolls, may be based on the indices or methodologies that the department considers appropriate. The department may set an increased toll for any class of traffic for any lane or other part of a tollway if the department determines that an increased toll is necessary or appropriate for financing the tollway or to reduce traffic congestion, increase mobility, improve connectivity, promote fuel conservation, achieve operating efficiencies, or promote public safety. The department shall specify the times or conditions under which an increased toll will be imposed. A reduced rate of toll is not allowed within a class, except:**

(1) through the use of commutation or other tickets or privileges based upon frequency or volume of use;

(2) as permitted under an electronic tolling program;

(3) as permitted under a managed lane program under section 27.5 of this chapter;

(4) as necessary, desirable, or appropriate for financing the tollway;

(5) on a part of a tollway designated by the department, in its discretion, as an area free of tolls;

(6) as determined appropriate by the department; or

(7) as permitted under a public-private agreement.

(d) A person that passes a toll gate or other area of a tollway where a toll, charge, or fee is due without paying that amount

1 **commits a Class C infraction.**

2 SECTION 33. IC 8-15-3-26 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The
4 department may adopt rules under IC 4-22-2 for the following:

5 (1) The control and regulation of traffic on a tollway.

6 (2) The protection and preservation of property under the
7 department's **or operator's** jurisdiction and control.

8 (3) The maintenance and preservation of good order within the
9 property under the department's **or operator's** control.

10 (b) Rules adopted under this chapter must provide that law
11 enforcement officers be afforded ready access, while in the performance
12 of their official duties, to all property under the department's jurisdiction
13 without the payment of tolls.

14 **(c) A person who violates a rule adopted under this section**
15 **commits a Class C infraction.**

16 SECTION 34. IC 8-15-3-27.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE UPON PASSAGE]: **Sec. 27.5. (a) The rules adopted**
19 **under section 26 or 27 of this chapter may include restrictions on**
20 **the use of one (1) or more lanes on any part of a tollway as**
21 **necessary, appropriate, or desirable for financing the tollway or to**
22 **reduce congestion, increase mobility, promote fuel conservation,**
23 **achieve operating efficiencies, or promote public safety. The**
24 **restrictions may include limiting use of one (1) or more lanes to**
25 **private vehicles, high occupancy vehicles, vehicles that participate**
26 **in an electronic tolling program, trucks, commercial vehicles,**
27 **special fuel vehicles, transit vehicles, or vehicles that pay a higher**
28 **toll for exclusive use of a dedicated lane. The rules may require a**
29 **person eligible to use a restricted lane to obtain the permit**
30 **specified by the department or an operator, as permitted under a**
31 **public-private agreement.**

32 (b) The department may require that an electronic device or
33 other identification device specified by the department or by an
34 operator as permitted under a public-private agreement be
35 maintained in a vehicle using a restricted lane on a tollway.

36 (c) The department may construct barriers or implement other
37 design, construction, or operational features to implement a
38 managed lane, express lane, or other program under this section.

39 SECTION 35. IC 8-15-3-27.7 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE UPON PASSAGE]: **Sec. 27.7. (a) The rules adopted**
42 **under section 26 or 27 of this chapter may establish an electronic**
43 **tolling program. The rules must provide at least the following:**

44 (1) A participant must enter into a written agreement
45 containing the terms and conditions approved by the
46 department.

47 (2) An agreement must require the participant to do the
48 following:

49 (A) Establish the account specified by the department and

maintain the balance of funds in the account specified by the department.

(B) Hold and use any device provided to register use of a tollway that is chargeable to the participant's account in the manner specified in the rules and participant's agreement.

(C) Pay the fees, charges, and tolls specified by the department or an operator, as permitted under a public-private agreement.

(D) Comply with any other necessary or appropriate terms and conditions specified by the department or an operator, as permitted under a public-private agreement.

(3) A method for resolving disputed charges with account holders, including an agreement by the account holder to hold the department and its agents harmless for the payment of any unpaid financial obligation incurred by the account holder.

(4) The program will comply with all applicable federal and state laws, regulations, and rules regulating credit transactions between the entity holding the account and the account holder.

(5) Notice will be provided to the participant of all federal and state privacy, credit, and other laws, regulations, and policies applicable to an account and the program.

(b) The department may establish reasonable fees and charges to be charged to account holders and business entities participating in the electronic tolling program and to recover costs of administration, account initiation and maintenance, late payments, credit card and other electronic transactions, enforcement, and improvement of the program. The fees and charges shall be deposited in the appropriate special funds account for the tollways covered by the program, as specified by the department, or used, retained, or deposited as permitted under a public-private agreement.

(c) The identifying credit and tollway use information of an electronic tolling program participant may not be used by the department or an operator for commercial purposes not related to the tollway.

SECTION 36. IC 8-15-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. **Subject to any public-private agreement that applies to a tollway, including terms applicable to the financing of the tollway,** the department may, after issuing an order and after receiving the governor's approval, at any time determine that a tollway under its jurisdiction should become a part of the system of state highways free of tolls.

SECTION 37. IC 8-15-3-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. **The department may arrange for the use and employment of police officers to police a tollway. The police officers employed under this section are vested with all necessary police powers to enforce state laws. A police officer employed under this section has the same powers within the**

property limits of a tollway as a law enforcement officer (as defined in IC 35-41-1-17) within the law enforcement officer's jurisdiction. A warrant of arrest issued by the proper authority of the state may be executed within the property limits of the tollway by a police officer employed by the department or an operator.

SECTION 38. IC 8-15-3-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35. (a) If a public-private agreement is entered into under IC 8-15.7 with respect to a project, the department may authorize:**

(1) the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter or IC 8-15.7; and

(2) the operator under the public-private agreement to exercise all or a part of the powers of the department under sections 9, 16, 29, and 30 of this chapter under the public-private agreement.

(b) The department may authorize the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter.

SECTION 39. IC 8-15.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR TOLL ROAD PROJECTS

Chapter 1. General Provisions

Sec. 1. The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a

statute authorizing the imposition of tolls.

(c) Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

Sec. 3. The general assembly finds and determines that:

(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, and therefore alternative funding sources should be developed to supplement public revenue sources;

(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); and

(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Authority" refers to the Indiana finance authority.

Sec. 3. "Department" refers to the Indiana department of transportation.

Sec. 4. "Offeror" means a private entity that has submitted a proposal for a public-private agreement under this article.

Sec. 5. "Operator" means a private entity that has entered into a public-private agreement with the authority.

Sec. 6. "Private entity" means any individual, sole proprietorship, corporation, limited liability company, joint venture, general partnership, limited partnership, nonprofit entity, or other private legal entity. A public agency may provide services to a private entity without affecting the private status of the private entity and the ability to enter into a public-private agreement.

Sec. 7. "Project" or "toll road project" has the meaning set forth in IC 8-15-2-4(4).

Sec. 8. "Public-private agreement" means an agreement under this article between a private entity and the authority under which the private entity, acting on behalf of the authority as lessee, licensee, or franchisee, will plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair,

manage, maintain, or finance a toll road project.

Sec. 9. "Request for proposals" means all materials and documents prepared by or on behalf of the authority to solicit proposals from offerors to enter into a public-private agreement.

Sec. 10. "User fees" means the rates, tolls, or fees imposed for the use of, or incidental to, all or any part of a toll road project under a public-private agreement.

Chapter 3. Authority to Enter Into Public-Private Agreements

Sec. 1. Subject to the other provisions of this article, the authority and a private entity may enter into a public-private agreement with respect to a toll road project. Subject to the requirements of this article, a public-private agreement may provide that the private entity is partially or entirely responsible for any combination of the following activities with respect to the project:

- (1) Planning.
- (2) Design.
- (3) Acquisition.
- (4) Construction.
- (5) Reconstruction.
- (6) Improvement.
- (7) Extension or expansion.
- (8) Operation.
- (9) Repair.
- (10) Management.
- (11) Maintenance.
- (12) Financing.

Chapter 4. Selection of Operator by Request for Proposals

Sec. 1. Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a toll road project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

Sec. 2. A request for proposals issued by the authority must include the following:

- (1) The factors or criteria that will be used in evaluating the proposals.
- (2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.
- (3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.
- (4) A statement concerning any other information that the authority may consider in evaluating the proposals.
- (5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:

1 (A) discussions; or

2 (B) negotiations;

3 with eligible offerors to other eligible offerors.

4 Sec. 3. Notice of a request for proposals shall be given by
5 publication in accordance with IC 5-3-1.

6 Sec. 4. As provided in a request for proposals, discussions may
7 be conducted with the offerors for the purpose of clarification to
8 assure full understanding of and responsiveness to the solicitation
9 requirements.

10 Sec. 5. Eligible offerors must be accorded fair and equal
11 treatment with respect to any opportunity for discussion and
12 revision of proposals.

13 Sec. 6. (a) The authority may not disclose the contents of
14 proposals during discussions or negotiations with eligible offerors.

15 (b) The authority may, in its discretion in accordance with
16 IC 5-14-3, treat as confidential all records relating to discussions
17 or negotiations between the authority and eligible offerors if those
18 records are created while discussions or negotiations are in
19 progress.

20 (c) Notwithstanding subsections (a) and (b), and with the
21 exception of parts that are confidential under IC 5-14-3, the terms
22 of the selected offer negotiated under this article shall be available
23 for inspection and copying under IC 5-14-3 after negotiations with
24 the offerors have been completed.

25 (d) When disclosing the terms of the selected offer under
26 subsection (c), the authority shall certify that the information being
27 disclosed accurately and completely represents the terms of the
28 selected offer.

29 Sec. 7. (a) The authority shall negotiate with one (1) or more
30 responsible offerors who submit proposals that are determined to
31 be reasonably capable of being selected for a public-private
32 agreement and may seek to obtain a final offer from one (1) or
33 more responsible offerors.

34 (b) In determining whether one (1) or more responsible offerors
35 are reasonably capable of being selected for a public-private
36 agreement, the authority must consider all the following:

37 (1) The responsible offeror's expertise, qualifications,
38 competence, skills, and know-how to perform its obligations
39 under the proposed public-private agreement in accordance
40 with the public-private agreement.

41 (2) The financial strength of the responsible offeror, including
42 its capitalization.

43 (3) The experience of the responsible offeror in operating toll
44 roads and highways and other similar projects and the quality
45 of the responsible offeror's past or present performance on
46 other similar or equivalent projects.

47 (4) The integrity, background, and reputation of the
48 responsible offeror, including the absence of criminal, civil, or
49 regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any private entity that controls the actions of the offeror or operator.

Sec. 8. After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

(1) make a preliminary selection of an offeror as the operator for the related toll road project, whose final offer is referred to in this article as the "selected offer"; or

(2) terminate the request for proposal process.

Sec. 9. If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority shall schedule a public hearing on the preliminary selection and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the related toll road project and of the public-private agreement to be awarded.

(4) The identity of the offeror that has been preliminarily selected as the operator for the project.

(5) The address and telephone number of the authority.

(6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the authority during regular business hours.

Sec. 10. (a) Subject to section 6 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under section 9 of this chapter.

(b) At the hearing, the authority shall allow the public to be heard on the preliminary selection.

Sec. 11. (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the

1 authority, the governor shall designate the offeror who submitted
 2 the selected offer as the operator for the related toll road project.
 3 The authority shall publish notice of the designation of the
 4 operator for the related toll road project one (1) time, in
 5 accordance with IC 5-3-1.

6 (c) After the designation of the operator for the related toll road
 7 project, the authority may execute the public-private agreement
 8 with that operator.

9 Sec. 12. Any action to contest the validity of a public-private
 10 agreement entered into under this chapter may not be brought
 11 after the fifteenth day following the publication of the notice of the
 12 designation of an operator under the public-private agreement as
 13 provided in section 11 of this chapter.

14 Sec. 13. The authority shall disclose the contents of all proposals,
 15 except the parts of the proposals that may be treated as
 16 confidential in accordance with IC 5-14-3, when either:

17 (1) the request for proposal process is terminated under
 18 section 8 of this chapter; or

19 (2) the public-private agreement has been executed and the
 20 closing for each financing transaction required to provide
 21 funding to carry out the agreement has been conducted.

22 Chapter 5. Terms and Conditions of Public-Private Agreements

23 Sec. 1. (a) Before developing or operating a toll road project, a
 24 private entity that has been selected as the operator of a toll road
 25 project under this article shall enter into a public-private
 26 agreement with the authority setting forth the rights and duties of
 27 the operator under this article.

28 (b) A public-private agreement entered into under this article
 29 must be approved by the governor before its execution.

30 Sec. 2. A public-private agreement entered into under this article
 31 must provide for the following:

32 (1) The original term of the public-private agreement, which
 33 may not exceed seventy-five (75) years.

34 (2) Provisions for a:

35 (A) lease, franchise, or license of the toll road project and the
 36 real property owned by the authority upon which the toll
 37 road project is located or is to be located; or

38 (B) management agreement or other contract to operate the
 39 toll road project and the real property owned by the
 40 authority upon which the toll road project is located or is to
 41 be located;

42 for a predetermined period. The public-private agreement
 43 must provide for ownership of all improvements and real
 44 property by the authority in the name of the state.

45 (3) Monitoring of the operator's maintenance practices by the
 46 authority and the taking of actions by the authority that it
 47 considers appropriate to ensure that the toll road project is
 48 properly maintained.

49 (4) The basis upon which user fees that may be collected by the

operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning the following:

(1) Review and approval by the authority of the operator's plans for the development and operation of the toll road project.

(2) Inspection by the authority of construction of or improvements to the toll road project.

(3) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and employees and to enable the continued operation of the toll road project.

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

(5) Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

(6) Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the revenues collected by the operator in the operation and management of the toll road project.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator, if any.

(7) Financing obligations of the operator and the authority, including entering into agreements for the benefit of the financing parties.

(8) Apportionment of expenses between the operator and the authority.

(9) The rights and duties of the operator, the authority, and other state and local governmental entities with respect to use of the toll road project, including the state police department and other law enforcement and public safety agencies.

(10) Arbitration or other dispute resolution mechanisms or remedies for the settlement of claims and other disputes arising under the agreement.

(11) Payment of money to either party upon default or delay, or upon termination of the public-private agreement, with the

1 payments to be used:

2 (A) in the form of liquidated damages to compensate the
3 operator for demonstrated unamortized costs, lost profits, or
4 other amounts as provided in the agreement;

5 (B) to retire or refinance indebtedness related to the toll road
6 project or the public-private agreement; or

7 (C) for any other purpose mutually agreeable to the operator
8 and the authority.

9 (12) Indemnification of the operator by the authority under
10 conditions specified in the agreement.

11 (13) Assignment, subcontracting, or other delegation of
12 responsibilities of the operator or the authority under the
13 agreement to third parties, including other private entities, the
14 department, and other state agencies.

15 (14) Sale or lease to the operator of personal property related
16 to the toll road project.

17 (15) Other lawful terms and conditions to which the operator
18 and the authority mutually agree.

19 Sec. 4. (a) The operator may finance its obligations with respect
20 to the toll road project and the public-private agreement in the
21 amounts and upon the terms and conditions determined by the
22 operator.

23 (b) The operator may:

24 (1) issue debt, equity, or other securities or obligations;

25 (2) enter into sale and leaseback transactions; and

26 (3) secure any financing with a pledge of, security interest in,
27 or lien on any user fees charged and collected for the use of the
28 toll road project and any property interest of the operator in
29 the toll road project.

30 However, any bonds, debt, other securities, or other financing
31 issued for the purposes of this article shall not be considered to
32 constitute a debt of the state or any political subdivision of the state
33 or a pledge of the faith and credit of the state or any political
34 subdivision.

35 (c) The operator may deposit the user fees charged and collected
36 for the use of the toll road project in a separate account held by a
37 trustee or escrow agent for the benefit of the secured parties of the
38 operator.

39 Sec. 5. Notwithstanding any contrary provision of this article, the
40 authority may enter into a public-private agreement with multiple
41 private entities if the authority determines in writing that it is in the
42 public interest to do so.

43 Sec. 6. The department or any other state agency may perform
44 any duties and exercise any powers of the authority under this
45 article or the public-private agreement that have been assigned,
46 subcontracted, or delegated to it by the authority.

47 Chapter 6. Construction and Operating Standards for Toll Road
48 Projects

49 Sec. 1. The plans and specifications for each toll road project

constructed under this article must comply with:

- (1) the authority's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and
- (2) any other applicable state or federal standards.

Sec. 2. Unless otherwise provided by federal law, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. The operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is subject to:

- (1) the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes; and
- (2) the provisions that may be established by the authority in a public-private agreement with respect to awarding contracts to Indiana businesses (as defined in IC 5-22-15-20.5).

Sec. 4. Each toll road project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

Sec. 5. An operator may enter into agreements for maintenance or other services under this article with the authority, the department, or other state agencies. The authority may:

- (1) with the assistance of all applicable state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for toll road projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and
- (2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of toll road projects under this article.

Sec. 6. The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

Chapter 7. User Fees

Sec. 1. (a) Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

1 (b) In fixing the amounts referred to in subsection (a), the
2 authority may:

- 3 (1) establish maximum amounts for the user fees; and
- 4 (2) provide for increases or decreases of the user fees or the
5 maximum amounts established based upon the indices,
6 methodologies, or other factors that the authority considers
7 appropriate.

8 Sec. 2. A schedule of the current user fees shall be made available
9 by the operator to any member of the public on request.

10 Sec. 3. User fees established by the authority under this article
11 are not subject to supervision or regulation by any other
12 commission, board, bureau, or agency of the state, or by any
13 political subdivision.

14 Sec. 4. User fees established by the authority under section 1 of
15 this chapter for the use of a toll road project must be
16 nondiscriminatory and may:

- 17 (1) include different user fees based on categories such as
18 vehicle class, vehicle size, vehicle axles, vehicle weight, volume,
19 location, or traffic congestion or such other means or
20 classification as the authority determines to be appropriate;
- 21 (2) vary by time of day or year; or
- 22 (3) be based on one (1) or more factors considered relevant by
23 the authority, which may include any combination of:

24 (A) the costs of:

- 25 (i) operation;
- 26 (ii) maintenance; and
- 27 (iii) repair and rehabilitation;

28 (B) debt service payments on bonds or other obligations;

29 (C) adequacy of working capital;

30 (D) depreciation;

31 (E) payment of user fees, any state, federal, or local taxes, or
32 payments in lieu of taxes; and

33 (F) the sufficiency of income to:

- 34 (i) maintain the toll road project in a sound physical and
35 financial condition to render adequate and efficient
36 service; and
- 37 (ii) induce an operator to enter into a public-private
38 agreement.

39 Sec. 5. A public-private agreement may:

- 40 (1) grant an operator a license or franchise to charge and
41 collect tolls for the use of the toll road project;
- 42 (2) authorize the operator to adjust the user fees charged and
43 collected for the use of the toll road project, so long as the
44 amounts charged and collected by the operator do not exceed
45 the maximum amounts established by the authority under
46 section 1 of this chapter;
- 47 (3) provide that any adjustment by the operator permitted
48 under subdivision (2) may be based on such indices,
49 methodologies, or other factors as described in the

public-private agreement or as approved by the authority;
 (4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third party.

Sec. 6. (a) As used in this section, "Class 2 vehicle" means any vehicle with two (2) axles, including motorcycles.

(b) If the authority enters into a public-private agreement concerning the operation of the Indiana Toll Road, the authority shall enter into a written agreement with the operator concerning the implementation of electronic or nonmanual means of collecting user fees imposed on Class 2 vehicles.

Sec. 7. (a) After expiration of a public-private agreement, the authority may:

(1) continue to charge user fees for the use of the toll road project; or

(2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project. Any revenues determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

Sec. 8. Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under IC 4-22-2-37.1(a)(30).

Chapter 8. Taxation of Operators

Sec. 1. A toll road project and tangible personal property used exclusively in connection with a toll road project that are:

(1) owned by the authority and leased, franchised, licensed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator in connection with the toll road project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner

as income received by other private entities.

Sec. 3. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in the toll road project is not exempt from the application of the gross retail or use tax under IC 6-2.5 with respect to such a purchase.

Chapter 9. Records of Operators

Sec. 1. Records that are provided by an operator to the authority that relate to compliance by an operator with the terms of a public-private agreement are subject to inspection and copying in accordance with IC 5-14-3.

Chapter 10. Additional Powers of the Authority Concerning Toll Road Projects

Sec. 1. The authority may exercise any powers provided under this article in participation or cooperation with the department or any other governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

Sec. 2. (a) The authority may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

(b) The department and any other state agency may make and enter into all contracts and agreements necessary or incidental to the performance of the duties and the execution of the powers granted to the department or the state agency in accordance with this article or the public-private agreement. These contracts or agreements are not subject to any approvals other than the approval of the department or state agency and may be for any term of years and contain any terms that are considered reasonable by the department or the state agency.

Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private

1 agreement.

2 (c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2
3 to provide funds for any amounts identified under this section
4 without complying with IC 8-9.5-8-10.

5 Sec. 4. For purposes of this article, the authority may authorize
6 an operator under a public-private agreement to perform any of
7 its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and
8 IC 8-15-2-24.

9 Sec. 5. The authority may exercise any of its powers under
10 IC 8-15-2 or any other provision of the Indiana Code as necessary
11 or desirable for the performance of the authority's duties and the
12 execution of the authority's powers under this article.

13 Sec. 6. The authority may not take any action under this chapter
14 that would impair the public-private agreement entered into under
15 this article.

16 Sec. 7. (a) The authority shall enter into an agreement between
17 and among the operator, the authority, and the state police
18 department concerning the provision of law enforcement assistance
19 with respect to a toll road project that is the subject of a
20 public-private agreement under this article.

21 (b) The authority shall enter into arrangements with the state
22 police department related to costs incurred in providing law
23 enforcement assistance under this article.

24 (c) All law enforcement officers of the state and any political
25 subdivision have the same powers and jurisdiction within the limits
26 of a toll road project as they have in their respective areas of
27 jurisdiction, including the roads and highways of the state. These
28 law enforcement officers shall have access to a toll road project
29 that is the subject of a public-private agreement to exercise their
30 powers and jurisdiction.

31 Chapter 11. Toll Road Fund

32 Sec. 1. As used in this chapter, "account" refers to an account
33 established within the fund.

34 Sec. 2. As used in this chapter, "fund" refers to the toll road fund
35 established by section 3 of this chapter.

36 Sec. 3. (a) The toll road fund is established to provide funds to:

37 (1) pay or defease certain bonds in the manner provided by
38 this chapter;

39 (2) pay amounts owed by the authority in connection with the
40 execution and performance of a public-private agreement
41 under this article, including operating expenses of the
42 authority; and

43 (3) make distributions to the next generation trust fund and the
44 major moves construction fund.

45 (b) The authority shall hold, administer, and manage the fund.

46 (c) Expenses of administering the fund shall be paid from money
47 in the fund.

48 (d) The fund consists of the following:

49 (1) Money received from an operator under a public-private

1 agreement.

2 (2) Appropriations, if any, made by the general assembly.

3 (3) Grants and gifts intended for deposit in the fund.

4 (4) Interest, premiums, gains, or other earnings on the fund.

5 (5) Amounts transferred to the fund under subsection (i).

6 (6) Amounts transferred to the fund under IC8-14-14-6(a)(5)

7 (e) The authority shall establish the following separate accounts
8 within the fund:

9 (1) The bond retirement account.

10 (2) The administration account.

11 (3) The eligible project account.

12 (f) Money in the fund shall be deposited, paid, and secured in the
13 manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the
14 authority shall invest the money in the fund that is not needed to
15 meet the obligations of the fund in the manner provided by an
16 investment policy established by resolution of the authority.

17 (g) The fund is not part of the state treasury and is considered a
18 trust fund for purposes of IC 4-9.1-1-7. Money may not be
19 transferred, assigned, or otherwise removed from the fund by the
20 state board of finance, the budget agency, or any other state
21 agency.

22 (h) Money in the fund at the end of a state fiscal year does not
23 revert to the state general fund.

24 (i) As soon as practicable after a public-private agreement
25 concerning the Indiana Toll Road has been executed and the
26 closing for each financing transaction required to provide funding
27 to carry out the agreement has been conducted, the authority shall
28 determine the total balance remaining in all toll road funds and
29 accounts established under IC 8-15-2. Subject to any applicable
30 trust indentures securing toll road bonds, the authority may retain
31 from those funds and accounts the amounts necessary to pay
32 outstanding obligations with respect to the operation of the Indiana
33 Toll Road incurred before the effective date of the public-private
34 agreement, and shall transfer all remaining balances in the toll
35 road funds and accounts to the fund.

36 Sec. 4. (a) Before any allocations are made from the fund under
37 this chapter, the authority shall determine:

38 (1) the extent to which outstanding bonds issued by the
39 authority under IC 8-14.5-6 or IC 8-15-2 should be repaid,
40 defeased, or otherwise retired;

41 (2) the total amount necessary to repay, defease, or otherwise
42 retire the bonds selected by the authority for repayment,
43 defeasance, or retirement; and

44 (3) the total amount necessary to pay the amounts owed by the
45 authority related to the execution and performance of a
46 public-private agreement under this article, including
47 establishing reserves, plus the amount necessary to establish an
48 escrow account to implement a written agreement entered into
49 under IC 8-15.5-7-6 to fund reductions in, or refunds of, user

fees imposed on Class 2 vehicles.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection (c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be allocated to the eligible project account. Money in this account may be used only for the purposes described in section 3(a)(3) of this chapter. Within thirty (30) days after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall transfer:

(1) five hundred million dollars (\$500,000,000) of the money in the eligible project account to the next generation trust fund established under IC 8-14-15; and

(2) the remainder of the money in the eligible project account to the major moves construction fund.

In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund.

Sec. 5. The money allocated to the eligible project account must be used to make distributions to the next generation trust fund and the major moves construction fund, as provided by section 4 of this chapter.

Chapter 12. Prohibited Local Action

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would have the effect of impairing a public-private agreement under this article.

Chapter 13. Prohibited Political Contributions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds at least a one percent (1%) interest in an operator.

(4) The person is a political action committee of an operator.

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Class D felony.

SECTION 40. IC 8-15.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.7. PUBLIC-PRIVATE PARTNERSHIPS

Chapter 1. General Provisions

Sec. 1. The general assembly finds the following:

(1) There is a public need for timely development and operation of transportation facilities in Indiana that address the needs identified by the department, through the department's transportation plan and otherwise, by

1 accelerating project delivery, improving safety, reducing
 2 congestion, increasing mobility, improving connectivity,
 3 increasing capacity, enhancing economic efficiency, promoting
 4 economic development, or any combination of those methods.

5 (2) This public need may not be wholly satisfied by existing
 6 methods of procurement and project delivery in which
 7 transportation facilities are developed, financed, or operated.

8 (3) Authorizing private entities to do all or part of the
 9 development, planning, design, construction, maintenance,
 10 repair, rehabilitation, expansion, financing, and operation of
 11 one (1) or more transportation facilities may result in the
 12 availability of the transportation facilities to the public in a
 13 more timely, more efficient, or less costly fashion, thereby
 14 serving the public safety and welfare.

15 Sec. 2. An action, other than an approval by the authority or the
 16 department under IC 8-15.7-4, serves the public purpose of this
 17 article if the action facilitates the timely development, planning,
 18 design, construction, maintenance, repair, rehabilitation,
 19 expansion, financing, or operation of a qualifying project.

20 Sec. 3. It is the intent of this article to:

21 (1) encourage investment in Indiana by private entities that
 22 facilitates the development, planning, design, construction,
 23 maintenance, repair, rehabilitation, expansion, financing, and
 24 operation of transportation facilities; and

25 (2) grant public and private entities the greatest possible
 26 flexibility in contracting with each other for the provision of
 27 the public services that are the subject of this article.

28 Sec. 4. The powers conferred by this article shall be liberally
 29 construed in order to accomplish their purposes and are in
 30 addition and supplemental to the powers conferred by any other
 31 law. If any other law or rule is inconsistent with this article, this
 32 article is controlling as to any public-private agreement entered
 33 into under this article.

34 Sec. 5. (a) This article contains full and complete authority for
 35 agreements and leases with private entities to carry out the
 36 activities described in this article. Except as provided in this
 37 article, no procedure, proceeding, publication, notice, consent,
 38 approval, order, or act by the authority, the department, or any
 39 other state or local agency or official is required to enter into an
 40 agreement or lease, and no law to the contrary affects, limits, or
 41 diminishes the authority for agreements and leases with private
 42 entities, except as provided by this article.

43 (b) Notwithstanding any other law, the department, the
 44 authority, or an operator may not carry out any of the following
 45 activities under this article unless the general assembly enacts a
 46 statute authorizing that activity:

47 (1) Issuing a request for proposals for, or entering into, a
 48 public-private agreement concerning a project other than
 49 Interstate Highway 69 between Interstate Highway 465 and

Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

Sec. 6. To the extent that this article permits or requires the authority, the department, or a private entity to carry out any law other than this article under a public-private agreement, the action shall be carried out in conformity with this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Affected jurisdiction" means the following:

(1) Any county, city, or town in which all or a part of a qualifying project is located.

(2) Any other public entity directly affected by the qualifying project.

Sec. 3. "Authority" or "Indiana finance authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. "Department" refers to the Indiana department of transportation.

Sec. 5. "Develop" or "development" means to do one (1) or more of the following:

(1) Plan.

(2) Design.

(3) Develop.

(4) Lease.

(5) Acquire.

(6) Install.

(7) Construct.

(8) Reconstruct.

(9) Rehabilitate.

(10) Extend.

(11) Expand.

Sec. 6. "Highway, street, or road" has the meaning set forth in IC 8-23-1-23.

Sec. 7. "Law enforcement officer" has the meaning set forth in IC 35-41-1-17.

Sec. 8. "Maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the department.

Sec. 9. "Offeror" means a private entity that has submitted a qualification submittal or a proposal for a public-private

1 agreement under this article.

2 Sec. 10. "Operate" or "operation" means to do one (1) or more
3 of the following:

- 4 (1) Maintain.
- 5 (2) Improve.
- 6 (3) Equip.
- 7 (4) Modify.
- 8 (5) Otherwise operate.

9 Sec. 11. "Operator" means a private entity that has entered into
10 a public-private agreement with the department to provide
11 services to or on behalf of the department.

12 Sec. 12. "Political subdivision" has the meaning set forth in
13 IC 36-1-2-13.

14 Sec. 13. "Private entity" means any combination of one (1) or
15 more individuals, corporations, general partnerships, limited
16 liability companies, limited partnerships, joint ventures, business
17 trusts, nonprofit entities, or other business entities that are parties
18 to a proposal for a qualifying project or a public-private
19 agreement related to a qualifying project. A public agency may
20 provide services to an operator as a subcontractor or
21 subconsultant without affecting the private status of the private
22 entity and the entity's or operator's ability to enter into a
23 public-private agreement.

24 Sec. 14. Subject to IC 8-15.7-1-5, "project" means all or part of
25 the following:

- 26 (1) A limited access facility (as defined in IC 8-23-1-28).
- 27 (2) A tollway.
- 28 (3) Roads and bridges.
- 29 (4) All or part of a bridge, tunnel, overpass, underpass,
30 interchange, structure, ramp, access road, service road,
31 entrance plaza, approach, tollhouse, utility corridor, toll
32 gantry, rest stop, service area, or administration, storage, or
33 other building or facility, including temporary facilities and
34 buildings or facilities and structures that will not be tolled, that
35 the department determines is appurtenant, necessary, or
36 desirable for the development, financing, or operation of the
37 facilities described in subdivisions (1), (2), and (3).
- 38 (5) An improvement, betterment, enlargement, extension, or
39 reconstruction of all or part of any of the facilities described in
40 this section, including a nontolled part, that is separately
41 designated by name or number.

42 Sec. 15. "Public-private agreement" means the public-private
43 agreement between the operator and the department that relates
44 to any combination of the development, financing, or operation of
45 a qualifying project and is entered into under this article.

46 Sec. 16. "Qualifying project" means one (1) or more projects
47 developed, financed, or operated by an operator under this article.

48 Sec. 17. "Request for proposals" means all materials and
49 documents prepared by or on behalf of the department to solicit

1 proposals from offerors to enter into a public-private agreement.

2 Sec. 18. "Request for qualifications" means all materials and
3 documents prepared by or on behalf of the department to solicit
4 qualification submittals from offerors to enter into a public-private
5 agreement.

6 Sec. 19. "Revenues" means all revenues, including any
7 combination of:

- 8 (1) income;
- 9 (2) earnings and interest;
- 10 (3) user fees;
- 11 (4) lease payments;
- 12 (5) allocations;
- 13 (6) federal, state, and local appropriations, grants, loans, lines
14 of credit, and credit guarantees;
- 15 (7) bond proceeds;
- 16 (8) equity investments; or
- 17 (9) other receipts;

18 arising out of or in connection with a qualifying project, including
19 the development, financing, and operation of a qualifying project.
20 The term includes money received as grants, loans, lines of credit,
21 credit guarantees, or otherwise in aid of a qualifying project from
22 the federal government, the state, a political subdivision, or any
23 agency or instrumentality of the federal government, the state, or
24 a political subdivision.

25 Sec. 20. "Tollway" has the meaning set forth in IC 8-15-3-7.

26 Sec. 21. "Transportation plan" has the meaning set forth in
27 IC 8-23-1-41.

28 Sec. 22. "User fees" means the rates, tolls, or fees imposed for
29 use of, or incidental to, all or part of a qualifying project under a
30 public-private agreement.

31 Chapter 3. Formation of an Agreement

32 Sec. 1. Subject to IC 8-15.7-1-5, the department may exercise the
33 powers granted by this article to carry out:

- 34 (1) the development;
- 35 (2) the financing;
- 36 (3) the operation; or
- 37 (4) any combination of the development, financing, and
38 operation;

39 of all or part of one (1) or more projects through public-private
40 agreements with one (1) or more private entities. The parties to a
41 public-private agreement that relates to a tollway or a project that
42 otherwise charges user fees may exercise any of the powers
43 granted to the party under IC 8-15-3. The department may use the
44 revenues arising out of one (1) project or public-private agreement
45 for all or part of the development, financing, and operation of any
46 part of one (1) or more other projects through public-private
47 agreements with one (1) or more private entities or as otherwise
48 considered appropriate by the department.

49 Sec. 2. An operator has:

- (1) all powers allowed by law generally to a private entity having the same form of organization as the operator; and
- (2) the power to develop, finance, and operate the qualifying project and impose user fees in connection with the use of the qualifying project.

Tolls or user fees may not be imposed by the operator except as set forth in a public-private agreement. User fees and the setting of user fee rates are not subject to supervision or regulation by any commission, board, bureau, or agency of the state or any municipality, other than the department to the extent set forth in the public-private agreement.

Sec. 3. The operator may own, lease, or acquire any property interest or other right to develop, finance, or operate the qualifying project.

Sec. 4. In operating the qualifying project, the operator may do the following:

- (1) Make user classifications as permitted in the public-private agreement.
- (2) As permitted in the public-private agreement or otherwise with the consent of the department, make and enforce reasonable rules to the same extent that the department may make and enforce rules with respect to a similar project.

Sec. 5. The department shall establish a program to facilitate participation in qualifying projects by:

- (1) small businesses that qualify for a small business set-aside under IC 4-13.6-2-11;
- (2) businesses certified under IC 4-13-16.5 as a minority business enterprise;
- (3) businesses certified under IC 4-13-16.5 as a women's business enterprise;
- (4) businesses treated as disadvantaged business enterprises under federal or state law; and
- (5) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations.

Chapter 4. Procurement Process

Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

- (1) The department shall cause to be prepared a preliminary feasibility study on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility of proposed toll road projects. The preliminary feasibility study must be based upon a public-private financial and project delivery structure.

(2) After the completion of the preliminary feasibility study, the department shall schedule a public hearing on the proposed project and the preliminary feasibility study and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(A) The date, time, and place of the hearing.

(B) The subject matter of the hearing.

(C) A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

(D) The address and telephone number of the department.

(3) At the hearing, the department shall allow the public to be heard on the proposed project and the preliminary feasibility study.

(4) After the public hearing described in subdivision (2), the department shall submit the preliminary feasibility study to the budget committee for its review before the commencement of the procurement process under this chapter.

Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the

department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the proposed public-private agreement and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

- (1) The date, time, and place of the hearing.
- (2) The subject matter of the hearing.
- (3) A description of the agreement to be awarded.
- (4) The recommendation that has been made to award the agreement to an identified offeror or offerors.
- (5) The address and telephone number of the department.

(l) At the hearing, the department shall allow the public to be heard on the proposed public-private agreement.

(m) When the terms and conditions of multiple awards are specified in the request for proposals, awards may be made to more than one (1) offeror.

Sec. 3. (a) After the procedures required in this chapter have been completed, the department shall make a determination as to whether the successful offeror should be designated as the operator for the project and shall submit its decision to the governor and the budget committee.

(b) After review of the department's determination by the budget committee, the governor may accept or reject the determination of the department. If the governor accepts the determination of the department, the governor shall designate the successful offeror as the operator for the project. The department shall publish notice of the designation of the operator one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the successful offeror as the operator for the project, the department may execute the public-private agreement.

(d) An action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the

1 fifteenth day following the publication of the notice of the
 2 designation of the operator under the public-private agreement
 3 under subsection (b).

4 **Sec. 4.** The department may pay a stipulated amount to an
 5 unsuccessful offeror that submits a responsive proposal in response
 6 to a request for proposals under this chapter, in exchange for the
 7 work product contained in that proposal. The use by the
 8 department of any design element contained in an unsuccessful
 9 proposal is at the sole risk and discretion of the department and
 10 does not confer liability on the recipient of the stipulated amount
 11 under this section. After payment of the stipulated amount:

12 (1) the department and the unsuccessful offeror jointly own the
 13 rights to, and may make use of any work product contained in,
 14 the proposal, including the technologies, techniques, methods,
 15 processes, ideas, and information contained in the proposal,
 16 project design, and project financial plan; and

17 (2) the use by the unsuccessful offeror of any part of the work
 18 product contained in the proposal is at the sole risk of the
 19 unsuccessful offeror and does not confer liability on the
 20 department.

21 **Sec. 5.** In addition to any other rights under this article, in
 22 connection with any procurement under this chapter, the
 23 department may:

24 (1) withdraw a request for qualifications or a request for
 25 proposals at any time and, in its discretion, publish a new
 26 request for qualifications or request for proposals;

27 (2) decline to award a public-private agreement for any
 28 reason;

29 (3) request clarifications to any qualification submittal or
 30 request for proposals or seek one (1) or more revised
 31 proposals or one (1) or more best and final offers;

32 (4) modify the terms, provisions, and conditions of a request
 33 for qualification, request for proposals, technical specifications,
 34 or form of public-private agreement during the pendency of a
 35 procurement; and

36 (5) interview offerors.

37 **Sec. 6. (a)** The department may not disclose the contents of
 38 proposals during discussions or negotiations with potential
 39 offerors.

40 (b) The department may, in its discretion in accordance with
 41 IC 5-14-3, treat as confidential all records relating to discussions
 42 or negotiations between the department and potential offerors if
 43 those records are created while discussions or negotiations are in
 44 progress.

45 (c) Notwithstanding subsections (a) and (b), and with the
 46 exception of portions that are confidential under IC 5-14-3, the
 47 terms of the selected offer negotiated under this article shall be
 48 available for inspection and copying under IC 5-14-3 after
 49 negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the department shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

(e) The department shall disclose the contents of all proposals, except the parts of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 5 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

Chapter 5. Public-Private Agreements

Sec. 1. (a) Before beginning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, or operation;

of a qualifying project, the operator must enter into a public-private agreement with the department. Subject to the other provisions of this article, the department and a private entity may enter into a public-private agreement with respect to a project. Subject to the requirements of this article, a public-private agreement may provide that the private entity, acting on behalf of the department or the authority, is partially or entirely responsible for any combination of developing, financing, or operating the qualifying project.

(b) The public-private agreement may, as determined appropriate by the department for the particular qualifying project, provide for all or part of the following:

(1) Delivery of performance and payment bonds or other performance security determined suitable by the department, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the qualifying project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the department to protect the department and payment bond beneficiaries who have a direct contractual relationship with the operator or a subcontractor of the operator to supply labor or material. A payment or performance bond or alternative form of performance security required under a public-private agreement shall not be required for the part of a public-private agreement that includes only design, planning, or financing services, the performance of preliminary studies, or the acquisition of real property.

(2) Review of plans for any development or operation, or both, of the qualifying project by the department.

(3) Inspection of any construction of or improvements to the qualifying project by the department or another entity designated by the department or under the public-private agreement to ensure that the construction or improvements conform to the standards set forth in the public-private agreement or are otherwise acceptable to the department.

(4) Maintenance of:

(A) one (1) or more policies of public liability insurance (copies of which shall be filed with the department accompanied by proofs of coverage); or

(B) self-insurance;

each in the form and amount required by the public-private agreement or otherwise satisfactory to the department as reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.

(5) If operations are included within the operator's obligations under the public-private agreement, monitoring of the maintenance practices of the operator by the department or another entity designated by the department or under the public-private agreement, and the taking of the actions that the department finds appropriate to ensure that the qualifying project is properly maintained.

(6) Reimbursement to be paid to the department as set forth in the public-private agreement for services provided by the department.

(7) Filing of appropriate financial statements and reports as set forth in the public-private agreement or as otherwise in a form acceptable to the department on a periodic basis.

(8) Compensation or payments to the operator, attorneys, bankers, financial advisors, or other professionals. Compensation or payments may include one (1) or more of the following:

(A) A development fee, payable on a lump sum basis, progress payment basis, time and materials basis, or any other basis considered appropriate by the department.

(B) An operations fee, payable on a lump sum basis, time and material basis, periodic basis, or any other basis considered appropriate by the department.

(C) All or part of the revenues, if any, arising out of operation of the qualifying project.

(D) A maximum rate of return on investment or return on equity or a combination of the two (2).

(E) In kind services, materials, property, equipment, or other items.

(F) Compensation in the event of any termination.

(G) A cash payment to pay part of the project cost.

(H) Other compensation set forth in the public-private agreement or otherwise considered appropriate by the

- 1 department.
- 2 (9) Compensation or payments to the department, if any.
- 3 Compensation or payments may include one (1) or more of the
- 4 following:
- 5 (A) A concession payment, lease payment, or other fee, which
- 6 may be payable in a lump sum, on a periodic basis, or on any
- 7 other basis considered appropriate by the department.
- 8 (B) Sharing of revenues, if any, from the operation of the
- 9 qualifying project.
- 10 (C) Payment for any services, materials, equipment,
- 11 personnel, or other items provided by the department to the
- 12 operator under the public-private agreement or in
- 13 connection with the qualifying project.
- 14 (D) Other compensation set forth in the public-private
- 15 agreement or otherwise considered appropriate by the
- 16 department.
- 17 (10) The date and terms of termination of the operator's
- 18 authority and duties under this article, and circumstances
- 19 under which the operator's authority and duties may be
- 20 terminated before that date.
- 21 (11) Reversion of the qualifying project to the department at
- 22 the termination or expiration of the public-private agreement.
- 23 (12) Rights and remedies of the department if the operator
- 24 defaults or otherwise fails to comply with the terms of the
- 25 public-private agreement.
- 26 (c) A public-private agreement may not provide that the state or
- 27 the department is responsible for any debt incurred by an operator
- 28 in connection with the delivery of a project.
- 29 Sec. 2. (a) The department may fix and revise the amounts of
- 30 user fees that an operator may charge and collect for the use of any
- 31 part of a qualifying project in accordance with the public-private
- 32 agreement. In fixing these amounts, the department may:
- 33 (1) establish maximum amounts for the user fees; and
- 34 (2) provide for increases or decreases of the maximum amounts
- 35 based upon the indices, methodologies, or other factors that the
- 36 department considers appropriate.
- 37 (b) User fees established by the department for the use of a
- 38 qualifying project must be nondiscriminatory and may:
- 39 (1) include different user fees based on categories such as
- 40 vehicle class, vehicle size, vehicle axles, vehicle weight, volume,
- 41 location, traffic congestion, or other means or classification
- 42 that the department determines to be appropriate;
- 43 (2) vary by time of day or year; and
- 44 (3) be based on one (1) or more factors considered relevant by
- 45 the department, which may include any combination of:
- 46 (A) lease payments;
- 47 (B) financing costs and charges;
- 48 (C) debt repayment, including principal and interest;
- 49 (D) costs of development;

(E) costs of operation;
 (F) working capital;
 (G) reserves;
 (H) depreciation;
 (I) compensation to the operator;
 (J) compensation to the department; and
 (K) other costs, expenses, and factors set forth in the public-private agreement or otherwise considered appropriate by the department.

(c) A public-private agreement may:

- (1) authorize the operator to adjust the user fees for the use of the qualifying project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the department under this chapter;
- (2) provide that any adjustment by the operator permitted under subdivision (1) may be based on indices, methodologies, or other factors described in the public-private agreement or approved by the department;
- (3) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the department, global positioning systems and photo or video based toll collection enforcement systems; and
- (4) authorize the collection of user fees by a third party.

(d) A schedule of the current user fees shall be made available by the operator to any member of the public on request. User fees and the setting of user fee rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state or any municipality, except to the extent set forth in the public-private agreement.

(e) Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees.

Sec. 3. In the public-private agreement, the department may agree to make grants or loans for the development or operation, or both, of the qualifying project from amounts received from the federal government, any agency or instrumentality of the federal government, or any state or local agency.

Sec. 4. The public-private agreement must incorporate the duties of the operator under this article and may contain the other terms and conditions that the department determines serve the public purpose of this article. The public-private agreement may contain provisions under which the department or the authority agrees to provide notice of default and cure rights for the benefit of the operator and the persons or entities described in the public-private agreement that are providing financing for the qualifying project. The public-private agreement may contain any other lawful term

or condition to which the operator and the department mutually agree, including provisions regarding change orders, dispute resolution, required upgrades to the qualifying project, tolling policies, changes and modifications to the qualifying project, unavoidable delays, or provisions for a loan or grant of public funds for the development or operation, or both, of one (1) or more qualifying projects.

Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54; or

(3) operator or the authority for debt reduction.

Sec. 6. (a) Upon the termination or expiration of the public-private agreement, including a termination for default, the department may take over the qualifying project and succeed to all of the right, title, and interest in the qualifying project. The department may agree to accept the qualifying project subject to any liens on revenues previously granted by the operator to any person providing financing for the qualifying project.

(b) If the department elects to take over a qualifying project, the department may do all or part of the following:

(1) Develop, finance, or operate the project.

(2) Impose, collect, retain, and use user fees, if any, for the project.

(c) The department may use any revenues collected under this section for any of the following purposes or any other authorized use under this article:

(1) Making payments to individuals or entities in connection with the financing of the qualifying project.

(2) Paying development costs of the project.

(3) Paying current operation costs of the project or facilities, including compensation to the department for the services of the department in operating the qualifying project.

(4) Paying the operator for any compensation or payment owing upon termination.

(d) The full faith and credit of the state or any political subdivision or the authority is not pledged to secure any financing of the operator by the election to take over the qualifying project. Assumption of development or operation, or both, of the qualifying project does not obligate the state or any political subdivision or the authority to pay any obligation of the operator.

Sec. 7. Any changes in the terms of the public-private agreement agreed to by the parties shall be added to the public-private

1 agreement by written amendment.

2 Sec. 8. Notwithstanding any other provision of this article, the
3 department may enter into a public-private agreement with
4 multiple private entities if the department determines in writing
5 that it is in the public interest to do so.

6 Sec. 9. The public-private agreement may provide for all or part
7 of the development, financing, or operation of phases or segments
8 of the qualifying project.

9 Sec. 10. The department may enter into one (1) or more
10 memoranda of understanding with respect to the implementation
11 and administration of a public-private agreement. The memoranda
12 may provide that the department has responsibility for, and shall
13 administer and oversee certain aspects of the implementation of,
14 the public-private agreement under this article, including:

15 (1) undertaking any oversight and monitoring of the operator
16 as provided under the public-private agreement;

17 (2) reviewing plans for development and operation, as
18 applicable, as provided under the public-private agreement;

19 (3) granting or denying all consents and approvals as provided
20 under the public-private agreement, except for consents and
21 approvals relating to financial matters that the department is
22 not permitted to grant or deny under applicable law, in which
23 case the authority shall execute the consents and approvals
24 prepared by the department;

25 (4) receiving all development, operations, and financial reports
26 prepared by the operator or others, as provided under the
27 public-private agreement;

28 (5) preparing, negotiating, and executing any change orders
29 and amendments to the public-private agreement;

30 (6) issuing other written correspondence and communications
31 on behalf of the authority as provided under the public-private
32 agreement;

33 (7) preparing and issuing noncompliance letters and reports,
34 warning notices, and default letters to the operator as provided
35 under the public-private agreement; and

36 (8) exercising rights and remedies for a breach or default by
37 the operator as provided under the public-private agreement,
38 except for rights and remedies relating to financial matters
39 that the department is not permitted to exercise under
40 applicable law, in which case the authority shall exercise the
41 rights and remedies.

42 Chapter 6. Development and Operations Standards for Projects

43 Sec. 1. The plans and specifications, if any, for each project
44 developed under this article must comply with:

45 (1) the department's standards for other projects of a similar
46 nature, except as otherwise provided in the public-private
47 agreement; and

48 (2) any other applicable state or federal standards.

49 Sec. 2. Unless otherwise provided by federal law, the operator or

any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. Each project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

Sec. 4. An operator may enter into agreements for maintenance or other services under this article with the department and other local or state agencies. The department may:

(1) with the assistance of all applicable local and state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the department may be reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), right-of-way acquisition, utility relocations and adjustments, and preliminary design of projects under this article.

Sec. 5. The department shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for projects under this article.

Chapter 7. Taxation of Operators

Sec. 1. A project under this article and tangible personal property used exclusively in connection with a project that are:

(1) owned by the authority or the department and leased, licensed, financed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator on behalf of the authority or the department;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose. The property, and an operator's leasehold estate or interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in a project is entitled to the exemption from gross retail tax and use tax provided under IC 6-2.5-4-9(b) and IC 6-2.5-3-2(c), respectively, with respect to that tangible personal property.

Sec. 3. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner

as income received by other private entities.

Chapter 8. Financial Arrangements

Sec. 1. The authority or the department may do any combination of applying for, executing, or endorsing applications submitted by private entities to obtain federal, state, or local credit assistance for qualifying projects developed, financed, or operated under this article, including grants, loans, lines of credit, and guarantees.

Sec. 2. The authority or the department may take any action authorized by this article to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this article and may enter into any contracts required to receive the assistance.

Sec. 3. The authority or the department may agree to make grants or loans for any combination of the development, financing, or operation of a qualifying project from amounts received from the federal, state, or local government or any agency or instrumentality of the federal, state, or local government.

Sec. 4. The financing of a qualifying project may be in the amounts and upon the terms and conditions that are determined by the parties to the public-private agreement.

Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

- (1) Propose to use all or part of the revenues available to them.
- (2) Enter into grant agreements.
- (3) Access any designated transportation trust funds.
- (4) Access any other funds available to the authority or the department and the operator.
- (5) Accept grants from the authority, the port commission, any other state infrastructure bank, or any other agency or entity.

Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

- (1) Issue bonds, debt, or other obligations under IC 4-4-11, IC 8-15-2, or IC 8-15.7-9.
- (2) Enter into loan agreements or other credit facilities.
- (3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.
- (4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:
 - (A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or
 - (B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a

1 public-private agreement.

2 (b) The department and an operator may transfer any interest
3 in property that the department or operator has to the authority
4 to secure the financing.

5 Sec. 7. Public funds may be used for the purpose of financing a
6 qualifying project and may be mixed and aggregated with funds
7 provided by or on behalf of the operator or other private entities.

8 Sec. 8. For the purpose of financing a qualifying project, the
9 authority and the operator may apply for, obtain, issue, and use
10 private activity bonds available under any federal law or program.

11 Sec. 9. Any bonds, debt, other securities, or other financing
12 issued for the purposes of this article shall not be considered to
13 constitute a debt of the state or any political subdivision of the state
14 or a pledge of the faith and credit of the state or any political
15 subdivision.

16 Chapter 9. Issuance of Debt by Authority

17 Sec. 1. (a) The authority may, by resolution, issue and sell bonds
18 or notes of the authority for the purpose of providing funds to
19 carry out the provisions of this article with respect to the
20 development, financing, or operation of a project or projects or the
21 refunding of any bonds or notes, together with any costs associated
22 with a transaction.

23 (b) Bonds or notes issued under this chapter shall be issued in
24 accordance with IC 8-14.5-6 except that the bonds or notes are not
25 required to comply with IC 8-14.5-6-2, IC 8-14.5-6-3, or
26 IC 8-14.5-6-5(b).

27 Sec. 2. (a) The authority may enter into a lease with the
28 department or the operator, or both, of a project or projects
29 financed under this chapter. The department may lease a project
30 financed under this chapter to the authority or an operator under
31 a public-private agreement.

32 (b) A lease of a project to the department under this chapter
33 must comply with IC 8-14.5-5 except that:

34 (1) the lease is not required to comply with IC 8-14.5-5-3(a)(1);
35 and

36 (2) notwithstanding IC 8-14.5-5-2(a)(2), a lease under this
37 chapter may be extended from biennium to biennium, with the
38 extensions not to exceed a lease term of seventy-five (75) years
39 unless the department gives notice of nonextension at least six
40 (6) months before the end of the biennium, in which event the
41 lease expires at the end of the biennium in which the notice is
42 given.

43 Sec. 3. The department shall pay lease rentals for leases that the
44 department has entered into under this chapter that secure bonds
45 issued under this chapter from any legally available revenues,
46 including:

47 (1) payments received from an operator;

48 (2) federal highway revenues, subject to the limitations in
49 IC 8-14.5-7;

- (3) distributions from the state highway fund; and
- (4) other funds available to the department for such purpose.

Sec. 4. The bonds or notes issued under this chapter:

- (1) constitute the corporate obligations of the authority;
- (2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and
- (3) are payable solely as to both principal and interest from:
 - (A) the revenues from a lease to the department, if any;
 - (B) proceeds of bonds or notes, if any;
 - (C) investment earnings on proceeds of bonds or notes; or
 - (D) other funds available to the authority for such purpose.

Chapter 10. Acquisition of Property

Sec. 1. (a) A public entity may dedicate any property interest that it has for public use as a qualifying project if the public entity finds that dedication of the property interest will serve the public purpose of this article. In connection with the dedication, a public entity may convey any property interest that the public entity has to the operator, subject to the:

- (1) conditions imposed by general law governing conveyances; and
- (2) provisions of this article;

for the consideration that the public entity considers appropriate.

(b) Consideration for a transfer under this section may include an agreement with the operator to develop, finance, or operate the qualifying project. The property interests that the public entity may convey to the operator in connection with a dedication under this section may include licenses, franchises, easements, or any other right or interest that the public entity considers appropriate.

Sec. 2. The authority, the department, and an operator may enter into the leases, licenses, easements, and other grants of property interests that the department determines necessary to carry out this article.

Chapter 11. Law Enforcement

Sec. 1. All law enforcement officers of the state and of each affected jurisdiction have the same powers and jurisdiction within the limits of the qualifying project as they have in their respective areas of jurisdiction.

Sec. 2. Law enforcement officers shall have access to the qualifying project at any time for the purpose of exercising the law enforcement officer's powers and jurisdiction. This authority does not extend to the private offices, buildings, garages, and other improvements of the operator to any greater degree than the police power extends to any other private buildings and improvements.

Sec. 3. (a) The traffic and motor vehicle laws of Indiana or, if applicable, any local jurisdiction apply to conduct on a qualifying project to the same extent as they apply to conduct on similar projects in Indiana or the local jurisdiction.

(b) Punishment for infractions and offenses shall be as prescribed

by law for conduct occurring on similar projects in Indiana or the local jurisdiction.

Chapter 12. Resolution of Disputes

Sec. 1. The department has exclusive jurisdiction to adjudicate all matters specifically committed to the department's jurisdiction by this article.

Sec. 2. The department shall establish an expedited method for resolving disputes between the department and the parties to a public-private agreement and shall set forth that method in the public-private agreement.

Sec. 3. The department may pay, pursue, mediate, and settle any claim arising out of a public-private agreement.

Sec. 4. A public-private agreement may permit a party to the agreement to submit any claim arising under the agreement to arbitration or alternative dispute resolution under IC 34-57.

Chapter 13. Term of Agreement; Reversion of Property to State

Sec. 1. The term of a public-private agreement, including all extensions, may not exceed seventy-five (75) years. For purposes of measuring the term, the term begins on the date on which operations of a part of the qualifying project by the operator commences.

Sec. 2. The department shall terminate the operator's authority and duties under the public-private agreement on the date set forth in the public-private agreement.

Sec. 3. Upon termination of the public-private agreement, the authority and duties of the operator under this article cease, except for any duties and obligations that extend beyond the termination as set forth in the public-private agreement, and the qualifying project reverts to the department and shall be dedicated to the department for public use.

Chapter 14. Additional Powers of the Authority and the Department With Respect to Qualifying Projects

Sec. 1. The authority or the department may exercise any powers provided under this article in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

Sec. 2. The authority or the department may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's or department's duties and the execution of the authority's or department's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority or the department, as applicable, and may be for any term of years and contain any terms that are considered reasonable by the authority or the department.

Sec. 3. The authority or the department may pay the costs incurred under a public-private agreement entered into under this article from any funds legally available to the authority or the

1 department under this article or any other statute.

2 Sec. 4. For purposes of this article, the department may authorize
3 an operator under a public-private agreement to perform any of
4 its duties under IC 8-15-3-9, IC 8-15-3-16, IC 8-15-3-29,
5 IC 8-15-3-30, and IC 8-15-3-33.

6 Sec. 5. The department may exercise any of its powers under
7 IC 8-15-3 as necessary or desirable for the performance of its
8 duties and the execution of its powers under this article. In
9 connection with or in anticipation of the exercise by the authority
10 of any powers granted to the authority by this article, the
11 department may authorize the authority to exercise all or part of
12 the powers of the department under this article as necessary or
13 desirable to accomplish the purposes of this article.

14 Sec. 6. The authority or the department may not take any action
15 under this chapter that would impair the public-private agreement
16 entered into under this article.

17 Sec. 7. (a) The department shall enter into an agreement between
18 and among the operator, the department, and the state police
19 department concerning the provision of law enforcement assistance
20 with respect to a qualifying project that is the subject of a
21 public-private agreement under this article.

22 (b) The department may enter into arrangements with the state
23 police department related to costs incurred in providing law
24 enforcement assistance under this article.

25 Chapter 15. Prohibited Local Action

26 Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may
27 not take any action that would impair a public-private agreement
28 under this article.

29 Chapter 16. Prohibited Political Contributions

30 Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the
31 extent they do not conflict with the definitions in this article.

32 Sec. 2. As used in this chapter, "candidate" refers to any of the
33 following:

- 34 (1) A candidate for a state office.
- 35 (2) A candidate for a legislative office.
- 36 (3) A candidate for a local office.

37 Sec. 3. As used in this chapter, "committee" refers to any of the
38 following:

- 39 (1) A candidate's committee.
- 40 (2) A regular party committee.
- 41 (3) A committee organized by a legislative caucus of the house
42 of representatives of the general assembly.
- 43 (4) A committee organized by a legislative caucus of the senate
44 of the general assembly.

45 Sec. 4. As used in this chapter, "officer" refers only to either of
46 the following:

- 47 (1) An individual listed as an officer of a corporation in the
48 corporation's most recent annual report.
- 49 (2) An individual who is a successor to an individual described

1 in subdivision (1).

2 **Sec. 5. For purposes of this chapter, a person is considered to**
 3 **have an interest in an operator if the person satisfies any of the**
 4 **following:**

5 (1) The person holds at least a one percent (1%) interest in an
 6 operator.

7 (2) The person is an officer of an operator.

8 (3) The person is an officer of a person that holds at least a one
 9 percent (1%) interest in an operator.

10 (4) The person is a political action committee of an operator.

11 **Sec. 6. An operator is considered to have made a contribution if**
 12 **a contribution is made by a person who has an interest in the**
 13 **operator.**

14 **Sec. 7. An operator or a person who has an interest in an**
 15 **operator may not make a contribution to a candidate or a**
 16 **committee during the following periods:**

17 (1) The term during which the operator is a party to a
 18 public-private agreement entered into under this article.

19 (2) The three (3) years following the final expiration or
 20 termination of the public-private agreement described in
 21 subdivision (1).

22 **Sec. 8. A person who knowingly or intentionally violates this**
 23 **chapter commits a Class D felony.**

24 SECTION 41. IC 8-23-7-22 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) **Subject to**
 26 **subsection (b),** the department may, after issuing an order and receiving
 27 the governor's approval, determine that a state highway should become
 28 a tollway. After the order becomes effective, the department shall
 29 maintain and operate the tollway and levy and collect tolls as provided
 30 in IC 8-15-3 **or enter into a public-private agreement with an**
 31 **operator with respect to the tollway under IC 8-15.7.** Before issuing
 32 an order under this section, the department shall submit to the governor
 33 a plan to bring the tollway to the current design standards of the
 34 department for new state highways within a specified period. The
 35 specified period may not exceed five (5) years.

36 (b) **Notwithstanding any other law, the governor, the**
 37 **department, or an operator may not carry out any of the following**
 38 **activities under this section unless the general assembly enacts a**
 39 **statute authorizing that activity:**

40 (1) **Determine that a highway, other than Interstate Highway**
 41 **69 between Interstate Highway 64 and a city having a**
 42 **population of more than eleven thousand five hundred (11,500)**
 43 **but less than eleven thousand seven hundred forty (11,740),**
 44 **should become a tollway.**

45 (2) **Carry out construction for Interstate Highway 69 in a**
 46 **township having a population of more than seventy-five**
 47 **thousand (75,000) and less than ninety-three thousand five**
 48 **hundred (93,500).**

49 (3) **Impose tolls on motor vehicles for use of the part of an**

interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 42. IC 8-23-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Subject to subsection (c)**, the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) **enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.**

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

(c) **Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this section unless the general assembly enacts a statute authorizing that activity:**

(1) **Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).**

(2) **Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).**

SECTION 43. IC 8-23-9-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.

(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.

(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.

(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.

(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.

(6) All money that may at any time be appropriated from the state treasury.

(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.

(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

(11) Any money distributed to the state highway fund under IC 8-14-14, IC 8-15.5, or IC 8-15.7.

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

SECTION 44. IC 9-13-2-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. "Automated traffic law enforcement system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

SECTION 45. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device that:

(1) has one (1) or more motor vehicle sensors; and

(2) is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's front or rear license plate, as the vehicle proceeds through a tollgate, toll zone, or other area on a tollway, qualifying project, or toll road that is marked as required by the department, the authority, or an operator as a place where a person using the tollway, qualifying project, or toll road must pay a toll or is otherwise subject to a fee for using the tollway, qualifying project, or toll road.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 4. As used in this chapter, "operator" has the meaning set

1 forth in IC 8-15.5-2-5 or IC 8-15.7-2-11.

2 **Sec. 5. As used in this chapter, "owner" means a person in whose**
 3 **name a motor vehicle is registered under:**

- 4 (1) IC 9-18;
- 5 (2) the laws of another state;
- 6 (3) the laws of a foreign country; or
- 7 (4) the International Registration Plan.

8 **Sec. 6. As used in this chapter, "qualifying project" has the**
 9 **meaning set forth in IC 8-15.7-2-16.**

10 **Sec. 7. As used in this chapter, "toll road" has the meaning set**
 11 **forth for "toll road project" in IC 8-15-2-4(4).**

12 **Sec. 8. As used in this chapter, "tollway" has the meaning set**
 13 **forth in IC 8-15-3-7.**

14 **Sec. 9. The owner of a motor vehicle, other than an authorized**
 15 **emergency vehicle, that is driven or towed through a toll collection**
 16 **facility on a toll road, tollway, or qualifying project shall pay the**
 17 **proper toll.**

18 **Sec. 10. The department or the authority may adopt and enforce**
 19 **rules concerning:**

- 20 (1) the placement and use of automated traffic law enforcement
- 21 systems to enforce collection of user fees;
- 22 (2) required notification to owners of toll violations;
- 23 (3) the process for collection and enforcement of unpaid
- 24 amounts;
- 25 (4) the amount of fines, charges, and assessments for toll
- 26 violations; and
- 27 (5) other matters relating to automated traffic law enforcement
- 28 systems that the department or the authority considers
- 29 appropriate.

30 **Sec. 11. Before enforcing a rule adopted under section 10 of this**
 31 **chapter, the department, the authority, or an operator must install**
 32 **advance warning signs along the tollways, toll roads, or qualifying**
 33 **projects proceeding to the location at which an automated traffic**
 34 **law enforcement system is located.**

35 **Sec. 12. (a) In the prosecution of a toll violation, proof that the**
 36 **motor vehicle was driven or towed through the toll collection**
 37 **facility without payment of the proper toll may be shown by a**
 38 **video recording, a photograph, an electronic recording, or other**
 39 **appropriate evidence, including evidence obtained by an**
 40 **automated traffic law enforcement system.**

41 **(b) In the prosecution of a toll violation:**

- 42 (1) it is presumed that any notice of nonpayment was received
- 43 on the fifth day after the date of mailing; and
- 44 (2) a computer record of the department, the authority, or the
- 45 operator of the registered owner of the vehicle is prima facie
- 46 evidence of its contents and that the toll violator was the
- 47 registered owner of the vehicle at the time of the underlying
- 48 event of nonpayment.

49 **Sec. 13. (a) For purposes of this section, "transponder" means a**

1 device, placed on or within a motor vehicle, that is capable of
 2 transmitting information used to assess or collect tolls. A
 3 transponder is "insufficiently funded" when there are no
 4 remaining funds in the account in connection with which the
 5 transponder was issued.

6 (b) Any police officer of Indiana may seize a stolen or
 7 insufficiently funded transponder and return it to the department,
 8 the authority, or an operator, except that an insufficiently funded
 9 transponder may not be seized from the holder of an account
 10 sooner than the thirtieth day after the date the department, the
 11 authority, or an operator has sent a notice of delinquency to the
 12 holder of the account.

13 (c) The department or the authority may enter into an agreement
 14 with one (1) or more persons to market and sell transponders for
 15 use on tollways, toll roads, or qualifying projects.

16 (d) The department, the authority, or an operator may charge
 17 reasonable fees for initiating, administering, and maintaining
 18 electronic toll collection customer accounts.

19 (e) Electronic toll collection customer account information,
 20 including contact and payment information and trip data, is
 21 confidential and not subject to disclosure under IC 5-14-3. A
 22 contract for the acquisition, construction, maintenance, or
 23 operation of a tollway, toll road, or qualifying project must ensure
 24 the confidentiality of all electronic toll collection customer account
 25 information.

26 SECTION 46. IC 22-4-25-1, AS AMENDED BY P.L.202-2005,
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2006]: Sec. 1. (a) There is created in the state treasury a
 29 special fund to be known as the special employment and training
 30 services fund. All interest on delinquent contributions and penalties
 31 collected under this article, together with any voluntary contributions
 32 tendered as a contribution to this fund, shall be paid into this fund. The
 33 money shall not be expended or available for expenditure in any manner
 34 which would permit their substitution for (or a corresponding reduction
 35 in) federal funds which would in the absence of said money be available
 36 to finance expenditures for the administration of this article, but nothing
 37 in this section shall prevent said money from being used as a revolving
 38 fund to cover expenditures necessary and proper under the law for
 39 which federal funds have been duly requested but not yet received,
 40 subject to the charging of such expenditures against such funds when
 41 received. The money in this fund shall be used by the board for the
 42 payment of refunds of interest on delinquent contributions and penalties
 43 so collected, for the payment of costs of administration which are found
 44 not to have been properly and validly chargeable against federal grants
 45 or other funds received for or in the employment and training services
 46 administration fund, on and after July 1, 1945. Such money shall be
 47 available either to satisfy the obligations incurred by the board directly,
 48 or by transfer by the board of the required amount from the special
 49 employment and training services fund to the employment and training

1 services administration fund. No expenditure of this fund shall be made
 2 unless and until the board finds that no other funds are available or can
 3 properly be used to finance such expenditures, except that expenditures
 4 from said fund may be made for the purpose of acquiring lands and
 5 buildings or for the erection of buildings on lands so acquired which are
 6 deemed necessary by the board for the proper administration of this
 7 article. The board shall order the transfer of such funds or the payment
 8 of any such obligation or expenditure and such funds shall be paid by
 9 the treasurer of state on requisition drawn by the board directing the
 10 auditor of state to issue the auditor's warrant therefor. Any such warrant
 11 shall be drawn by the state auditor based upon vouchers certified by the
 12 board or the commissioner. The money in this fund is hereby
 13 specifically made available to replace within a reasonable time any
 14 money received by this state pursuant to 42 U.S.C. 502, as amended,
 15 which, because of any action or contingency, has been lost or has been
 16 expended for purposes other than or in amounts in excess of those
 17 approved by the bureau of employment security. The money in this fund
 18 shall be continuously available to the board for expenditures in
 19 accordance with the provisions of this section and shall not lapse at any
 20 time or be transferred to any other fund, except as provided in this
 21 article. Nothing in this section shall be construed to limit, alter, or
 22 amend the liability of the state assumed and created by IC 22-4-28, or
 23 to change the procedure prescribed in IC 22-4-28 for the satisfaction of
 24 such liability, except to the extent that such liability may be satisfied by
 25 and out of the funds of such special employment and training services
 26 fund created by this section.

27 (b) The board, subject to the approval of the budget agency and
 28 governor, is authorized and empowered to use all or any part of the
 29 funds in the special employment and training services fund for the
 30 purpose of acquiring suitable office space for the department by way of
 31 purchase, lease, contract, or in any part thereof to purchase land and
 32 erect thereon such buildings as the board determines necessary or to
 33 assist in financing the construction of any building erected by the state
 34 or any of its agencies wherein available space will be provided for the
 35 department under lease or contract between the department and the state
 36 or such other agency. The commissioner may transfer from the
 37 employment and training services administration fund to the special
 38 employment and training services fund amounts not exceeding funds
 39 specifically available to the commissioner for that purpose equivalent
 40 to the fair, reasonable rental value of any land and buildings acquired
 41 for its use until such time as the full amount of the purchase price of
 42 such land and buildings and such cost of repair and maintenance thereof
 43 as was expended from the special employment and training services
 44 fund has been returned to such fund.

45 (c) The board may also transfer from the employment and training
 46 services administration fund to the special employment and training
 47 services fund amounts not exceeding funds specifically available to the
 48 commissioner for that purpose equivalent to the fair, reasonable rental
 49 value of space used by the department in any building erected by the

state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) ~~The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars (\$450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(1) have been unemployed for at least four (4) weeks;~~

~~(2) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(3) are not participating in programs that duplicate those programs described in subsection (c).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subsection shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.~~

SECTION 47. IC 22-4-25-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. (a) In support of IC 8-14-14, IC 8-15-2, IC 8-15-3, and IC 8-15.5, the commissioner shall allocate an amount not to exceed two million dollars (\$2,000,000) annually for pre-apprenticeship and apprenticeship training and counseling assistance relating to the construction trades for individuals who:**

(1) are not otherwise eligible for training and counseling assistance under any other program; and

(2) are not participating in programs that duplicate those programs described in section 1(e) of this chapter.

Priority shall be granted to training or counseling persons who are members of a minority group (as defined by IC 4-13-16.5-1). The training and counseling assistance programs funded by this section must be approved by the department.

(b) This section expires December 31, 2012.

SECTION 48. IC 34-13-3-3, AS AMENDED BY P.L.208-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
 - (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
 - (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
 - (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
 - (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.
- This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.
- (6) The initiation of a judicial or an administrative proceeding.
 - (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
 - (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
 - (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
 - (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
 - (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
 - (12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), **toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14)** if the claimed loss occurs at least twenty (20) years after the public highway, **toll road project, tollway, or project** was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 49. IC 36-7.5-1-11, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. "Eligible county" refers to the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000), if:

(A) the fiscal body of the county has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority; and

(B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

SECTION 50. IC 36-7.5-1-12, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A commuter transportation district.

(3) A regional bus authority under IC 36-9-3-2(c).

(4) A regional transportation authority established under IC 36-9-3-2.

~~(4)~~ **(5) A shoreline development commission under IC 36-7-13.5.**

SECTION 51. IC 36-7.5-1-13, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional bus authority project, **a regional transportation authority project**, or a shoreline development commission project.

SECTION 52. IC 36-7.5-1-15.3 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: **Sec. 15.3. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.**

SECTION 53. IC 36-7.5-1-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: **Sec. 15.6. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.**

SECTION 54. IC 36-7.5-2-1, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; ~~and~~

(2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, **regional transportation authority projects and services**, shoreline development projects and activities, and economic development projects in northwestern Indiana; **and**

(3) assisting with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana.

SECTION 55. IC 36-7.5-2-3, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) **Except as provided in subsections (e) and (f),** the development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) members from which the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance before September 15, 2006, providing that the county is joining the development authority, and the fiscal body of a city that is located in the county and that has a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000) adopts an ordinance before September 15, 2006, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

(1) the development board shall be composed of nine (9) members rather than seven (7) members; and

(2) the additional two (2) members shall be appointed in the following manner:

(A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The member appointed under this clause must be an individual

1 nominated under subsection (f).

2 **(B) One (1) additional member shall be appointed jointly by**
 3 **the county executive and county fiscal body.**

4 **(f) This subsection applies only if the county described in**
 5 **subsection (e) is an eligible county participating in the development**
 6 **authority. The mayor of the largest city in the county described in**
 7 **subsection (e) shall nominate three (3) residents of the county for**
 8 **appointment to the development board. The governor's initial**
 9 **appointment under subsection (e)(2)(A) must be an individual**
 10 **nominated by the mayor. At the expiration of the member's term,**
 11 **the mayor of the second largest city in the county described in**
 12 **subsection (e) shall nominate three (3) residents of the county for**
 13 **appointment to the development board. The governor's second**
 14 **appointment under subsection (e)(2)(A) must be an individual**
 15 **nominated by the mayor. Thereafter, the authority to nominate the**
 16 **three (3) individuals from among whom the governor shall make**
 17 **an appointment under subsection (e)(2)(A) shall alternate between**
 18 **the mayors of the largest and the second largest city in the county**
 19 **at the expiration of a member's term.**

20 ~~(e)~~ **(g)** An individual or entity required to make an appointment under
 21 subsection (b) or nominations under subsection (d) must make the
 22 initial appointment before September 1, 2005, or the initial nomination
 23 before August 15, 2005. If an individual or entity does not make an
 24 initial appointment under subsection (b) before September 1, 2005, or
 25 the initial nominations required under subsection (d) before September
 26 1, 2005, the governor shall instead make the initial appointment.

27 SECTION 56. IC 36-7.5-2-4, AS ADDED BY P.L.214-2005,
 28 SECTION 73, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in
 30 subsection (b) for the initial appointments to the development board, a
 31 member appointed to the development board serves a four (4) year term.
 32 However, a member serves at the pleasure of the appointing authority.
 33 A member may be reappointed to subsequent terms.

34 (b) The terms of the initial members appointed to the development
 35 board are as follows:

36 (1) The initial member appointed by the governor who is not
 37 nominated under section 3(d) **or 3(f)** of this chapter shall serve a
 38 term of four (4) years.

39 (2) The initial member appointed by the governor who is nominated
 40 under section 3(d) of this chapter shall serve a term of two (2)
 41 years. **If a member is appointed under section 3(e)(2)(A) of this**
 42 **chapter, the initial member who is appointed under that**
 43 **provision shall serve a term of two (2) years.**

44 (3) The initial member appointed under section 3(b)(2)(D) of this
 45 chapter shall serve a term of three (3) years.

46 (4) The initial member appointed under section 3(b)(3) of this
 47 chapter shall serve a term of three (3) years.

48 (5) The initial members appointed under section 3(b)(2)(A) through
 49 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(6) If a member is appointed under section 3(e)(2)(B) of this chapter, the initial member appointed under that provision shall serve a term of three (3) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

SECTION 57. IC 36-7.5-2-5, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) **or 3(f)** of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

- (1) After December 31, 2012, a chair.
- (2) A vice chair.
- (3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b).

However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative vote of at least six (6) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

SECTION 58. IC 36-7.5-2-6, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum.
However, if the county described in section 3(e) of this chapter is

1 **an eligible county participating in the development authority, six**
 2 **(6) members of the development board constitute a quorum.**

3 (d) The affirmative votes of at least five (5) members of the
 4 development board are necessary to authorize any action of the
 5 development authority. **However, if the county described in section**
 6 **3(e) of this chapter is an eligible county participating in the**
 7 **development authority, the affirmative votes of at least six (6)**
 8 **members of the development board are necessary to authorize any**
 9 **action of the development authority.**

10 (e) Notwithstanding any other provision of this article, the minimum
 11 **number of at least five (5)** affirmative votes required under subsection
 12 (d) to take any of the following actions must include the affirmative
 13 vote of the member appointed by the governor who is not nominated
 14 under section 3(d) **or 3(f)** of this chapter:

- 15 (1) Making loans, loan guarantees, or grants or providing any other
- 16 funding or financial assistance for projects.
- 17 (2) Acquiring or condemning property.
- 18 (3) Entering into contracts.
- 19 (4) Employing an executive director or any consultants or technical
- 20 experts.
- 21 (5) Issuing bonds or entering into a lease of a project.

22 SECTION 59. IC 36-7.5-3-1, AS ADDED BY P.L.214-2005,
 23 SECTION 73, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE UPON PASSAGE]: Sec. 1. The development authority
 25 shall do the following:

- 26 (1) Assist in the coordination of local efforts concerning projects.
- 27 (2) Assist a commuter transportation district, an airport authority,
- 28 a shoreline development commission, **a regional transportation**
 29 **authority**, and a regional bus authority in coordinating regional
 30 transportation and economic development efforts.
- 31 (3) Fund projects as provided in this article.
- 32 (4) Fund bus services (including fixed route services and flexible
- 33 or demand-responsive services) and projects related to bus services
- 34 and bus terminals, stations, or facilities.

35 SECTION 60. IC 36-7.5-3-2, AS ADDED BY P.L.214-2005,
 36 SECTION 73, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The development
 38 authority may do any of the following:

- 39 (1) Finance, improve, construct, reconstruct, renovate, purchase,
- 40 lease, acquire, and equip land and projects located in an eligible
- 41 county.
- 42 (2) Lease land or a project to an eligible political subdivision.
- 43 (3) Finance and construct additional improvements to projects or
- 44 other capital improvements owned by the development authority
- 45 and lease them to or for the benefit of an eligible political
- 46 subdivision.
- 47 (4) Acquire land or all or a portion of one (1) or more projects from
- 48 an eligible political subdivision by purchase or lease and lease the
- 49 land or projects back to the eligible political subdivision, with any

1 additional improvements that may be made to the land or projects.
 2 (5) Acquire all or a portion of one (1) or more projects from an
 3 eligible political subdivision by purchase or lease to fund or refund
 4 indebtedness incurred on account of the projects to enable the
 5 eligible political subdivision to make a savings in debt service
 6 obligations or lease rental obligations or to obtain relief from
 7 covenants that the eligible political subdivision considers to be
 8 unduly burdensome.

9 (6) Make loans, loan guarantees, and grants or provide other
 10 financial assistance to or on behalf of the following:

11 (A) A commuter transportation district.

12 (B) An airport authority or airport development authority.

13 (C) A shoreline development commission.

14 (D) A regional bus authority. A loan, loan guarantee, grant, or
 15 other financial assistance under this clause may be used by a
 16 regional bus authority for acquiring, improving, operating,
 17 maintaining, financing, and supporting the following:

18 (i) Bus services (including fixed route services and flexible or
 19 demand-responsive services) that are a component of a public
 20 transportation system.

21 (ii) Bus terminals, stations, or facilities or other regional bus
 22 authority projects.

23 **(E) A regional transportation authority.**

24 (7) Provide funding to assist a railroad that is providing commuter
 25 transportation services in an eligible county.

26 (8) Provide funding to assist an airport authority located in an
 27 eligible county in the construction, reconstruction, renovation,
 28 purchase, lease, acquisition, and equipping of an airport facility or
 29 airport project.

30 **(9) Provide funding to assist in the development of an**
 31 **intermodal facility to facilitate the interchange and movement**
 32 **of freight.**

33 ~~(9)~~ **(10)** Provide funding to assist a shoreline development
 34 commission in carrying out the purposes of IC 36-7-13.5.

35 ~~(10)~~ **(11)** Provide funding for economic development projects in an
 36 eligible county.

37 ~~(11)~~ **(12)** Hold, use, lease, rent, purchase, acquire, and dispose of
 38 by purchase, exchange, gift, bequest, grant, condemnation, lease, or
 39 sublease, on the terms and conditions determined by the
 40 development authority, any real or personal property located in an
 41 eligible county.

42 ~~(12)~~ **(13)** After giving notice, enter upon any lots or lands for the
 43 purpose of surveying or examining them to determine the location
 44 of a project.

45 ~~(13)~~ **(14)** Make or enter into all contracts and agreements necessary
 46 or incidental to the performance of its duties and the execution of
 47 its powers under this article.

48 ~~(14)~~ **(15)** Sue, be sued, plead, and be impleaded.

49 ~~(15)~~ **(16)** Design, order, contract for, and construct, reconstruct, and

renovate a project or improvements to a project.

~~(16)~~ **(17)** Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

~~(17)~~ **(18)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

~~(18)~~ **(19)** Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

~~(19)~~ **(20)** Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

SECTION 61. IC 36-7.5-4-2, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (b)**, beginning in 2006 the fiscal officer of each city and county described in IC 36-7.5-2-3(b) ~~(other than the two (2) largest cities in a county described in IC 36-7.5-2-3(b)(1))~~ shall each transfer three million five hundred thousand dollars (\$3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(b) This subsection applies only if:

(1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;

(2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and

(3) the county described in IC 36-7.5-2-3(e) is an eligible county participating in the development authority.

Beginning in 2007, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five

thousand dollars (\$2,625,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. Beginning in 2007, the fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars (\$875,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

~~(b)~~ (c) The following apply to the transfers required by subsection ~~(a)~~:
subsections (a) and (b):

(1) Except for transfers of money described in subdivision (4)(D), the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) Except as provided in subdivision (3), after December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars (\$875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) After December 31, 2006, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars (\$656,250) to the development authority fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, 2007. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars (\$218,750) to the development authority fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any time before January 1, 2007.

~~(3)~~ (4) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or city under IC 8-14-16.

SECTION 62. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "authority" and "user fees" have the meanings set

1 forth in IC 8-15.5-2, as added by this act.

2 (b) The authority shall adopt a rule under IC 4-22-2-37.1, as
3 amended by this act, fixing user fees, including a schedule of the
4 user fees provided for under a public-private agreement entered
5 into under IC 8-15.5-4, as added by this act, on or before January
6 1, 2007.

7 (c) This SECTION expires July 1, 2007.

8 SECTION 63. [EFFECTIVE UPON PASSAGE] The Indiana
9 department of transportation may adopt temporary rules in the
10 manner provided for the adoption of emergency rules under
11 IC 4-22-2-37.1, as amended by this act, to implement IC 8-15-3, as
12 amended by this act, and IC 8-15.7, as added by this act. A
13 temporary rule adopted under this SECTION expires on the
14 earliest of the following:

15 (1) The date that another temporary rule adopted under this
16 SECTION supersedes or repeals the previously adopted
17 temporary rule.

18 (2) The date that a permanent rule adopted under IC 4-22-2
19 supersedes or repeals the temporary rule.

20 (3) The date specified in the temporary rule.

21 (4) January 1, 2008.

22 SECTION 64. [EFFECTIVE UPON PASSAGE] The provisions of
23 this act are severable in the manner provided by IC 1-1-1-8(b).

24 SECTION 65. [EFFECTIVE UPON PASSAGE] (a) The definitions
25 set forth in IC 8-15.5-2, as added by this act, apply throughout this
26 SECTION.

27 (b) Actions taken with respect to:

28 (1) the issuance of a request for proposals;

29 (2) the determination of responsible and eligible offerors; and

30 (3) the preliminary selection of an operator by the authority;

31 for a public-private agreement before the effective date of this act
32 that would have been valid under IC 8-15.5, as added by this act,
33 are legalized and validated.

34 SECTION 66. An emergency is declared for this act.

(Reference is to EHB 1008 as reprinted March 2, 2006, and as
amended by the committee report of the committee of one adopted
March 2, 2006.)

Conference Committee Report
on
Engrossed House Bill 1008

Signed by:

Representative Borror
Chairperson

Senator Meeks

Representative Espich

Senator Howard

House Conferees

Senate Conferees